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

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

RIN 0503-AA91

Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the U.S. Department of Agriculture (USDA) to reflect changes and additions to the delegations, as described below.

DATES: Effective April 13, 2026.

FOR FURTHER INFORMATION CONTACT: Anika Rennie, Office of the General Counsel, (667) 967-0621, anika.rennie@usda.gov.

SUPPLEMENTARY INFORMATION: This rule makes several changes to the United States Department of Agriculture's (USDA) delegations of authority in 7 CFR part 2 by adding new delegations and modifying or removing several existing delegations.

Overview of Changes

First, this rule codifies into the Code of Federal Regulations (CFR) any delegation of authority previously issued by the Secretary through a Secretary's Memorandum (SM) that has not yet been codified. These include:

- *SM 1077-012*: This SM delegated to the Administrator of the Risk Management Agency (RMA) the authority of the Secretary under section 1473A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319a). This delegation allows the Administrator of RMA to enter into cost-reimbursable agreements to improve the efficiency and effectiveness of Federal programs in support of the Federal Crop Insurance Program. To the extent to

which RMA entered into any such agreements after the expiration of the SM, such agreements are ratified in full.

- *SM 1078-018*: This SM delegated to the Assistant Secretary for Administration the authority under the Service First initiative to create a co-location program for Federal offices and facilities leased by USDA to further the Administration's Return-to-Office initiative and promote customer service and efficiency. This delegation also allows all agencies and staff offices of the USDA to use the Service First initiative to exercise the authority necessary to participate in the co-location program.

Second, this rule makes other changes to the published delegations consistent with existing SMs. On February 13, 2025, the Secretary rescinded all Diversity, Equity, Inclusion, and Accessibility programs, including the Special Emphasis Programs (SEP), and instructed the Department to reprioritize unity, equality, meritocracy, and color-blind policies. *See SM 1078-001*. In accordance with that instruction, this rule rescinds the delegations to the Assistant Secretary for Administration (§ 2.24(a)(4)(xv)) and the Director, Office of Human Resources Management (§ 2.91(a)(15)) to provide for diversity and inclusion through SEP programs and administering a Federal Equal Opportunity Recruitment Program.

Third, this rule makes technical changes to correct outdated citations or references. For example, it revises § 2.31(a)(7)) to update the reference from the General Accounting Office to the Government Accountability Office (GAO). Additionally, Section 315 of the Expanding Public Lands Outdoor Recreation Experiences (EXPLORE) Act, Public Law 118-234, repealed the Department's Service First authority at 43 U.S.C. 1703 and re-enacted it with revisions in 16 U.S.C. 8544(b). This rule updates the citation to the Service First authority accordingly throughout 7 CFR part 2. It also fixes a citation to title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for the Chief of the Forest Service. Finally, this rule updates references to the Defense Production Act of 1950, as it has been recodified from an Appendix to chapter 55 in title 50, U.S. Code.

Fourth, this rule makes new delegations consistent with activities already underway at the Department.

For example, this rule delegates authority to administer Section 9003(h) and (j) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103(h) and (j)), as added by Sections 22001 (Powering Affordable Clean Energy, or "PACE") and 22004 (Empowering Rural America, or "New ERA") of the Inflation Reduction Act, Public Law 117-169 (Aug. 16, 2022), to the Administrator of the Rural Utilities Service (RUS). Section 9003 otherwise remains delegated to the administrator of the Rural Business-Cooperative Service. Similarly, this rule delegates the various authorities of the Secretary in the Expanding Public Lands Outdoor Recreation Experiences (EXPLORE) Act, Public Law 118-234, and the National Forest System Trails Stewardship Act, 16 U.S.C. 583k *et seq.*, to the Chief of the Forest Service. To the extent to which RUS or the Forest Service have already undertaken activities consistent with those statutory authorities, such activities are ratified in full.

Finally, this rule modifies or removes several existing delegations. First, it removes the designation of the Inspector General as the liaison official for the Department for all audits of USDA performed by GAO. That administrative function will be reassigned in the Department. Second, this rule moves the delegation of authority to administer the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 *et seq.*) from the Under Secretary for Farm Production and Conservation and the Administrator of the Farm Service Agency to the Assistant Secretary for Administration. Third, this rule moves various administration and coordination functions related to the Defense Production Act of 1950 (50 U.S.C. 4501 *et seq.*), the Agriculture Priorities and Allocations System (7 CFR part 789), and several related Executive Orders from the Under Secretary for Farm Production and Conversation (FPAC), the Chief Operating Officer of the FPAC Business Center, and the Administrator of Farm Service Agency to the Assistant Secretary for Administration and the Executive Director of the Office of Homeland Security. Finally, the rule moves various legislative and regulatory reporting and related activities from the Director, Office of Budget and Program Analysis, to the General Counsel.

Classification

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This rule also is exempt from the provisions of Executive Orders 12866, as amended. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.*, or the Congressional Review Act, 5 U.S.C. 801 *et seq.*, and thus is exempt from the provisions of those acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, as discussed in the preamble, 7 CFR part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

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

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949–1953 Comp., p. 1024.

■ 2. In part 2, remove the text “50 U.S.C. App. 2061 *et seq.*” or “50 U.S.C. App. 2061, *et seq.*”, wherever it appears, and add, in its place, the text “50 U.S.C. 4501 *et seq.*”.

Subpart C—Delegations of Authority to the Deputy Secretary, Under Secretaries, and Assistant Secretaries

■ 3. Amend § 2.16 by:

- a. Removing and reserving paragraph (a)(1)(xii).
- b. Adding paragraph (a)(4)(xi).
- c. Removing and reserving paragraph (a)(6)(ii).

The addition reads as follows:

§ 2.16 Under Secretary for Farm Production and Conservation.

- (a) * * *
- (4) * * *

(xi) Enter into cost-reimbursable agreements with State cooperative institutions or other colleges and universities without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out

agricultural research, extension, or teaching activities of mutual interest. (7 U.S.C. 3319a).

* * * * *

■ 4. Amend § 2.17 by adding paragraph (a)(20)(xvi) to read as follows:

§ 2.17 Under Secretary for Rural Development.

- (a) * * *
- (20) * * *

(xvi) Administer section 9003(h) and (j) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103(h) and (j)).

* * * * *

■ 5. Amend § 2.20 by adding paragraphs (a)(2)(lvii) and (a)(2)(lviii) to read as follows:

§ 2.20 Under Secretary for Natural Resources and Environment.

- (a) * * *
- (2) * * *

(lvii) Carry out the functions of the Secretary of Agriculture authorized in the EXPLORE Act, Public Law 118–234, except as otherwise indicated in such Act.

(lviii) Carry out the functions of the Secretary of Agriculture authorized in the National Forest Systems Trails Stewardship Act (16 U.S.C. 583k *et seq.*).

* * * * *

■ 6. Amend § 2.24 by removing and reserving paragraph (a)(4)(xv) and by adding paragraphs (a)(6)(ii)(f), (a)(7), (a)(8)(x)(N), and (a)(8)(x)(O) to read as follows:

§ 2.24 Assistant Secretary for Administration.

- (a) * * *
- (6) * * *
- (ii) * * *

(j) Create the co-location program in Federal offices and facilities leased by USDA or the U.S. Department of the Interior (DOI), in support of the Service First initiative, for the purpose of promoting customer service and efficiency, including allowing all agencies and staff offices of USDA to use the Service First initiative to exercise the authority necessary to participate in the co-location program (16 U.S.C. 8544(b)).

* * * * *

(7) Administer the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 *et seq.*), except those functions delegated in § 2.21(a)(8)(xi).

- (8) * * *
- (x) * * *

(N) Administer functions delegated by the President to the Secretary under

Executive Order 13603, “National Defense Resources Preparedness”, Executive Order 12742, “National Security Industrial Responsiveness”, Executive Order 13917, “Delegating Authority Under the Defense Production Act with Respect to Food Supply Chain Resources During the National Emergency Caused by the Outbreak of COVID–19”, Executive Order 12656, “Assignment of Emergency Preparedness Responsibilities”, Executive Order 14387, “Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorous and Glyphosate-Based Herbicides”, or any successor or similar executive orders.

(O) Administer, coordinate, and implement the Agriculture Priorities and Allocations System (7 CFR part 789) under the Defense Production Act of 1950 (50 U.S.C. 4501 *et seq.*).

* * * * *

■ 7. Amend § 2.30 by revising paragraphs (a)(1), (a)(3), and (a)(6) to read as follows:

§ 2.30 Director, Office of Budget and Program Analysis.

- (a) * * *

(1) Serve as the Department’s Budget Officer and exercise general responsibility and authority for all matters related to the Department’s budgeting affairs, including all phases of the budget formulation and execution processes involving the resource administration of funds and staff years.

* * * * *

(3) Formulate and promulgate Departmental budgetary policies and procedures, including guidance on the development of appropriations-related legislative proposals.

* * * * *

(6) Review and analyze legislation and policy options to determine their impact on USDA programs and policy objectives and on the Department’s budget.

* * * * *

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

■ 8. Amend § 2.31 by revising paragraph (a)(7) and adding paragraph (e) to read as follows:

§ 2.31 General Counsel.

- (a) * * *

(7) Represent the Department in connection with legal issues that arise in its relations with the Congress, the Government Accountability Office, or other agencies of the Government.

* * * * *

(e) *Related to legislative and regulatory reporting.* Conduct legislative and regulatory reporting and related activities, including:

(1) Formulation and promulgation of Departmental legislative and regulatory policies and procedures.

(2) Review and analysis of regulations to determine their impact on USDA programs and policy objectives.

§ 2.33 [Amended]

■ 9. Amend § 2.33 by removing and reserving paragraph (a)(3).

Subpart F—Delegations of Authority by the Under Secretary for Farm Production and Conservation

■ 10. Amend § 2.42 by revising paragraph (a)(5) and by removing and reserving paragraph (a)(14) to read as follows:

§ 2.42 Administrator, Farm Service Agency.

(a) * * *

(5) Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. 4501 *et seq.*), and title VI of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5195 *et seq.*), relating to crop and animal production and financing farm and ranch operations.

* * * * *

■ 11. Amend § 2.44 by adding paragraph (a)(11) to read as follows:

§ 2.44 Administrator, Risk Management Agency and Manager, Federal Crop Insurance Corporation.

(a) * * *

(11) Enter into cost-reimbursable agreements with State cooperative institutions or other colleges and universities without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out agricultural research, extension, or teaching activities of mutual interest. (7 U.S.C. 3319a).

* * * * *

Subpart G—Delegations of Authority by the Under Secretary for Rural Development

■ 12. Amend § 2.47 by adding paragraph (a)(20) to read as follows:

§ 2.47 Administrator, Rural Utilities Service.

(a) * * *

(20) Administer section 9003(h) and (j) of the Farm Security and Rural

Investment Act of 2002 (7 U.S.C. 8103(h) and (j)).

* * * * *

Subpart J—Delegations of Authority by the Under Secretary for Natural Resources and Environment

■ 13. Amend § 2.60 by revising paragraph (a)(34) and by adding paragraphs (a)(66) and (a)(67) to read as follows:

§ 2.60 Chief, Forest Service.

(a) * * *

(34) Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. 4501 *et seq.*), and title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), relating to forests and forest products, rural fire defense, and forestry research.

* * * * *

(66) Carry out the functions of the Secretary of Agriculture authorized in the EXPLORE Act, Public Law 118–234, except as otherwise indicated in such Act.

(67) Carry out the functions of the Secretary of Agriculture authorized in the National Forest Systems Trails Stewardship Act (16 U.S.C. 583k *et seq.*).

* * * * *

Subpart P—Delegations of Authority by the Assistant Secretary for Administration

§ 2.91 [Amended]

■ 14. Amend § 2.91 by removing and reserving paragraph (a)(15).

■ 15. Amend § 2.95 by adding paragraphs (b)(10)(xiv) and (b)(10)(xv) to read as follows:

§ 2.95 Executive Director, Office of Homeland Security.

* * * * *

(b) * * *

(10) * * *

(xiv) Administer functions delegated by the President to the Secretary under Executive Order 13603, “National Defense Resources Preparedness”, Executive Order 12742, “National Security Industrial Responsiveness”, Executive Order 13917, “Delegating Authority Under the Defense Production Act with Respect to Food Supply Chain Resources During the National Emergency Caused by the Outbreak of COVID–19”, Executive Order 12656, “Assignment of Emergency Preparedness Responsibilities”, Executive Order 14387, “Promoting the National Defense by Ensuring an

Adequate Supply of Elemental Phosphorous and Glyphosate-Based Herbicides”, or any successor or similar executive orders.

(xv) Administer, coordinate, and implement the Agriculture Priorities and Allocations System (7 CFR part 789) under the Defense Production Act of 1950 (50 U.S.C. 4501 *et seq.*).

* * * * *

§§ 2.16, 2.20, 2.41, 2.42, 2.43, 2.44, and 2.60 [Amended]

■ 16. In addition to the amendments set forth above, in 7 CFR part 2, remove the text “43 U.S.C. 1703” and add, in its place, the text “16 U.S.C. 8544(b)” in the following places:

■ a. Section 2.16(a)(12);

■ b. Section 2.20(a)(2)(xxxix);

■ c. Section 2.41(a)(7);

■ d. Section 2.42(a)(31);

■ e. Section 2.43(a)(5);

■ f. Section 2.44(a)(10); and

■ g. Section 2.60(a)(48).

Stephen Vaden,

Deputy Secretary, U.S. Department of Agriculture.

[FR Doc. 2026–07088 Filed 4–10–26; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR 3560

[Docket No. RHS–24–MFH–0044]

RIN 0575–AD44

Revisions to the Calculation of Annual Household Income and Net Family Assets in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Programs

AGENCY: Rural Housing Service, U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), amends its regulation to implement changes related to income calculation and net family assets for properties that receive funding from the Multi-Family Housing (MFH) Section 515 Rural Rental Housing and the Section 514/516 Farm Labor Housing Direct Loan and Grant programs. These changes are intended to align the Agency’s annual income certification requirements with the Housing Opportunity Through Modernization Act of 2016 (HOTMA).

DATES: This rule is effective on April 13, 2026.

ADDRESSES: Information about Rural Development and its programs is available on the internet at rd.usda.gov.

FOR FURTHER INFORMATION CONTACT: Julie Felhofer, Multi-Family Housing Asset Management Division, Rural Housing Service, 1400 Independence Avenue SW, Washington DC 20250-0782, Telephone: (715) 295-4069; Email: julie.felhofer@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

Section 510(k) of Title V the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of the Department of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title. The MFH programs are implemented under 7 CFR part 3560.

II. Background

RHS offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for Single- and Multi-Family housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, housing for farm laborers and much more. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian Tribes, State and Federal Government agencies, and local communities.

MFH assists rural property owners through loans, loan guarantees, and grants that enable owners to develop and rehabilitate properties for low-income, elderly, and disabled individuals and families as well as domestic farm laborers.

On July 29, 2016, HOTMA (Pub. L. 114-201) was signed into law and made numerous modifications to the Housing Act of 1937 (1937 Act) affecting numerous federal rental assistance programs, which include RD MFH rental assistance programs. RHS published their proposed rule on June 30, 2025, in the **Federal Register** (90 FR 27817).

III. Discussion of the Final Rule and Public Comments

The Department of Housing and Urban Development (HUD) finalized its implementation of HOTMA and published a final rule on February 14, 2023 (88 FR 9600), which included significant changes to how HUD calculates annual income and net family assets. As a result, MFH is amending its regulation at 7 CFR 3560 to align with HUD and in compliance with HOTMA.

Under the RHS MFH program, tenants must annually certify their household income. 7 CFR 3560.153(a) currently requires that annual income be calculated in accordance with HUD's regulation at 24 CFR 5.609. MFH will continue to reference HUD's regulation in 7 CFR 3560.153(a) and will incorporate HUD's revised definition of "annual income" found at 24 CFR 5.609(a) and (b). The Agency will add new language to 7 CFR 3560.153 to clarify that "net family assets" will be calculated in accordance with HUD's regulation at 24 CFR 5.603(b).

No comments regarding the specific changes in the proposed rule were received by the Agency. The one comment received was in regard to carbon dioxide and energy related utility costs. RHS is finalizing the rulemaking as proposed.

IV. Summary of Changes

The Agency will make the following changes that are intended to align the MFH Rental Assistance Programs with the income and asset calculation updates, as required by HOTMA:

1. Update 7 CFR 3560.153 (a) stating that annual income will be calculated in accordance with 24 CFR 5.609 (a) and (b).
2. Add a new paragraph at 7 CFR 3560.153(c) stating that net family assets will be calculated in accordance with 24 CFR 5.603(b).

V. Executive Orders and Acts

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with state and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 12866, Regulatory Planning and Review

This final rule has been determined to be not significant and, therefore, was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988. In accordance with this rulemaking: (1) Unless otherwise specifically provided, all state and local laws that conflict with this rulemaking will be preempted; (2) no retroactive effect will be given to this rulemaking except as specifically

prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before suing in court that challenges action taken under this rulemaking.

Executive Order 13132, Federalism

The policies contained in this final rule do not have any 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. This final rule does not impose substantial direct compliance costs on State and local governments; therefore, consultation with States is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that 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. Consultation is also required for any regulation that preempts Tribal law or that imposes substantial direct compliance costs on Indian Tribal governments and that is not required by statute.

The Agency has determined that this final rule does not, to our knowledge, have Tribal implications that require formal Tribal consultation under Executive Order 13175. If a Tribe requests consultation, the Agency will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Assistance Listing

The programs affected by this regulation are listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.415-Rural Rental Housing Loans, 10.427-Rural Rental Assistance Payments, 10.405-Farm Labor Housing Loans and Grants.

Civil Rights Impact Analysis

RD has reviewed this final rule in accordance with USDA Regulation 4300–004, Civil Rights Impact Analysis, to identify any major civil rights impacts the proposed rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the final rule and available data, it has been determined that implementation of the rulemaking will not adversely or disproportionately impact low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status. No major civil rights impact is likely to result from this final rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this final rule as not a major rule, as defined by 5 U.S.C. 804(2).

E-Government Act Compliance

RHS is committed to complying with the E-Government Act by promoting the use of the internet and other information technologies to provide increased opportunities for citizen access to government information, services, and other purposes.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1b (“National Environmental Policy Act”). The Agency has determined that (i) this action meets the criteria established in 7 CFR1b and (ii) no extraordinary circumstances exist. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This final rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this final rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Unfunded Mandates Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and on the private sector. Under section 202 of the UMRA, Federal agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and Tribal governments or for the private sector. Therefore, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Nondiscrimination Statement

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, a complainant should complete a Form AD–3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf> 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; or
- (2) *Fax*: (202) 690–7442; or
- (3) *Email*: program.intake@usda.gov.

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

Severability

It is USDA’s intention that the provisions of this final rule shall operate independently of each other. In the event that this final rule or any portion of this rule is ultimately declared invalid or stayed as to a particular provision, it is USDA’s intent that this final rule nonetheless be severable and remain valid with respect to those provisions not affected by a declaration of invalidity or stayed. USDA concludes it would separately adopt all of the provisions contained in this final rule.

List of Subjects in 7 CFR 3560

Accounting, Administrative practice and procedure, Aged, Conflicts of interest, Government property management, Grant programs-housing and community development, Insurance, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent-subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, Rural Housing Service amends 7 CFR part 3560 as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

■ 2. Amend § 3560.153 by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 3560.153 Calculation of household income and assets.

(a) Annual income will be calculated in accordance with 24 CFR 5.609(a) and (b).

(c) Net family assets will be calculated in accordance with 24 CFR 5.603(b).

George Kelly,

Administrator, Rural Housing Service.

[FR Doc. 2026–07064 Filed 4–10–26; 8:45 am]

BILLING CODE 3410–XV–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 10, 11, 19, 20, 21, 25, 26, 30, 40, 50, 51, 53, 70, 72, 73, 74, 75, 95, 140, 150, 170, and 171

[NRC–2019–0062]

RIN 3150–AK31

Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a final rule that was published in the **Federal Register** (FR) on March 30, 2026, regarding the amendment of the NRC's regulations to add a risk-informed, performance-based, and technology-inclusive regulatory framework for commercial nuclear plants in response to the Nuclear Energy Innovation and Modernization Act. This action is necessary to correct errors in the final rule and address conflicting amendatory instructions between this final rule and the "Categorical Exclusions From Environmental Review" final rule also published on March 30, 2026.

DATES: The correction is effective on April 29, 2026.

ADDRESSES: Please refer to Docket ID NRC–2019–0062 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–2019–0062. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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

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

FOR FURTHER INFORMATION CONTACT:

Nicole Fields, Office of Nuclear Material Safety and Safeguards, telephone: 630–829–9570, email: Nicole.Fields@nrc.gov; and Anders Gilbertson, Office of Nuclear Reactor Regulation, telephone: 301–415–1541, email: Anders.Gilbertson@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The final rule, "Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors" (RIN 3150–AK31; NRC–2019–0062), (91 FR 15696; March 30, 2026) contained some minor errors in the regulatory instructions for §§ 20.1002, 20.1401, and 53.020 that this document corrects. In addition, on the same date, the final rule, "Categorical Exclusions From Environmental Review" (RIN 3150–AK54; NRC–2018–0030), (91 FR 15519; March 30, 2026) expanded and reorganized § 51.22. The final rules contained conflicting amendatory instructions for § 51.22. This document corrects the amendatory instructions for § 51.22 in FR Doc. 2026–06048 to include the references to 10 CFR part 53 that remain applicable following the reorganization of the affected provisions of § 51.22 in the final rule, "Categorical Exclusions From Environmental Review."

This document corrects errors in the preamble and in amendatory instructions 54, 57.a, 114, and 133 for §§ 20.1002, 20.1401, 51.22 and the addition of part 53, respectively. Amendatory instructions 54 and 57.a repeated the word "under" so this document revises those amendatory instructions by removing the extra word. Amendatory instruction 114 of 91 FR 15696 conflicts with amendatory instruction 4 of 91 FR 15519. This document revises amendatory instruction 114 to include the appropriate references to 10 CFR part 53, after § 51.22 was revised and republished by 91 FR 15519. This document revises the definition of "Construction" in § 53.020 in amendatory instruction 133 to correct a spelling mistake. Finally, this document also corrects the preamble discussion of anticipated event sequences, unlikely event sequences, and very unlikely event sequences to add a superscript negative sign in front of the five instances of exponents.

Corrections

In the FR on March 30, 2026, in FR Doc. 2026–06048, beginning on page 15696, the NRC makes the following corrections:

Preamble

1. On page 15702, in the first column, lines 5–17 are corrected to read as follows: "mean frequencies of 1×10^{-2} /plant-year and greater are classified as anticipated event sequences. Within the LMP methodology, infrequent event sequences with mean frequencies of 1×10^{-4} /plant-year to 1×10^{-2} /plant-year are classified as unlikely event sequences. "Very unlikely event sequences" are less likely to occur than unlikely event sequences. Within the LMP methodology, rare event sequences with frequencies of 5×10^{-7} /plant-year to 1×10^{-4} /plant-year are classified as".

Regulatory Text

§ 20.1002 [Corrected]

■ 2. On page 15772, in the second column, amendatory instruction 54 for § 20.1002 is corrected to read: "In § 20.1002, remove the phrase "parts 30 through 36, 39, 40, 50, 52, 60, 61, 63, 70, or 72" and add in its place the phrase "parts 30 through 36 or part 39, 40, 50, 52, 53, 60, 61, 63, 70, or 72"."

§ 20.1401 [Corrected]

■ 3. On page 15772, in the second column, amendatory instruction 57.a for § 20.1401 is corrected to read as follows: "In paragraph (a), remove "parts 30, 40, 50, 52, 60, 61, 63, 70, and

72” and add in its place “parts 30, 40, 50, 52, 53, 60, 61, 63, 70, and 72”; and”.

§ 51.22 [Corrected]

■ 4. On page 15793, in the first column, amendatory instruction 114 for § 51.22 is corrected to read as follows:

§ 51.22 [Amended]

114. In § 51.22, as amended at 91 FR 15519 (March 30, 2026):

- a. In paragraph (a)(11), remove “part 52” and add in its place “part 52 or 53”;
- b. In paragraph (a)(15), remove “10 CFR 52.103(g)” and add in its place “10 CFR 52.103(g) or 53.1452(g)”; and
- c. In paragraph (d)(8), remove “10 CFR part 50 or 52” and add in its place “10 CFR part 50, 52, or 53”.

§ 53.020 [Corrected]

■ 5. On page 15797, in the first column, in § 53.020, in the introductory text for the definition of “Construction”, correct the word “defintion” to read “definition”.

Dated: April 9, 2026.

For the Nuclear Regulatory Commission.

Araceli Billoch Colon,

Chief Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026-07090 Filed 4-10-26; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-2225; **Airspace**
Docket No. 23-AGL-35]

RIN 2120-AA66

Establishment of Class E Airspace; Wall Municipal Airport, Wall, SD

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Wall Municipal Airport, Wall, SD, to accommodate the airport’s transition to instrument flight rules (IFR) service. This action supports the safety and management of IFR operations at the airport.

DATES: Effective date 0901 UTC, September 3, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT:

Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231-3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace to support IFR operations at Wall Municipal Airport, Wall, SD.

History

The FAA published an NPRM for Docket No. FAA 2023-2225 in the **Federal Register** (91 FR 6803; February 13, 2026), proposing to establish Class E airspace extending upwards from 700 feet above the surface at Wall Municipal Airport, SD. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E5 airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace

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

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Wall Municipal Airport, Wall, SD, to provide controlled airspace containment for the Area Navigation (RNAV) (Global Positioning System [GPS]) Runway (RWY) 13 and RNAV (GPS) RWY 31 approach procedures that were recently developed for the airport, and also to provide containment for diverse IFR departures. The Class E airspace is established within a 6.5-mile radius surrounding the airport to provide sufficient containment for departing IFR operations until reaching 1,200 feet above the surface and arriving IFR operations when operating less than 1,500 feet above the surface.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1G, “FAA National Environmental Policy Act Implementing Procedures,” Appendix B, paragraph B-2.5. This airspace action is not expected to cause any potentially significant

environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL SD E5 Wall, SD [New]

Wall Municipal Airport, SD
(Lat. 43°59'59" N, long. 102°15'15" W)

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

* * * * *

Issued in Washington, DC, on April 8, 2026.

B.G. Chew,

*Group Manager, Operations Support Group,
Western Service Center.*

[FR Doc. 2026–07056 Filed 4–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF EDUCATION

34 CFR Part 75

[Docket ID ED–2025–OS–0118]

Final Priority and Definitions— Secretary’s Supplemental Priority and Definitions on Advancing Artificial Intelligence in Education

AGENCY: U.S. Department of Education.

ACTION: Final priority and definitions.

SUMMARY: The Department of Education (Department) announces one priority and related definitions for use in

currently authorized discretionary grant programs or programs that may be authorized in the future. The Secretary may choose to use an entire priority for a grant program or a particular competition or use one or more of the priority’s component parts. This priority and definitions augment the initial set of three Secretary’s Supplemental Priorities on Evidence-Based Literacy, Educational Choice, and Returning Education to the States published as final priorities on September 9, 2025; the additional Secretary’s Supplemental Priorities on Meaningful Learning Opportunities, published as a final priority on February 12, 2026, and Career Pathways and Workforce Readiness, published as a final priority elsewhere in this issue of the **Federal Register**; and the additional proposed Secretary’s Supplemental Priority on Promoting Patriotic Education, published as a proposed priority on September 17, 2025.

DATES: The priority and definitions are effective May 13, 2026.

FOR FURTHER INFORMATION CONTACT:

Zachary Rogers, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–6450. Telephone: (202) 260–1144. Email: SSP@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Purpose of this Regulatory Action: On July 21, 2025, the Department published a notice of proposed supplemental priority and definitions (NPP) in the **Federal Register** (90 FR 34203). This final priority and definitions may be used across the Department’s discretionary grant programs.

Summary of the Major Provisions of This Regulatory Action: Through this regulatory action, we establish one supplemental priority and associated definitions. Each major provision is discussed in the *Public Comment* section of this document.

Program Authority: 20 U.S.C. 1221e–3, 3474, 6301 *et seq.*, 5 U.S.C. 311 *et seq.*

The NPP in the **Federal Register** published on July 21, 2025, (90 FR 34203) contained background information and our reasons for proposing the priority and definitions. There are differences between the proposed priority and definitions and the final priority and definitions established in this notice of final priority and definitions (NFP), as discussed in the *Analysis of Comments and Changes* section in this document.

Public Comment: In response to our invitation in the NPP, over 300 parties submitted comments on the proposed priority and definitions.

Generally, we do not address technical and other minor changes, or suggested changes that the law does not authorize us to make under applicable statutory authority. In addition, we do not address general comments regarding concerns not directly related to the proposed priority or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities and definitions since publication of the NPP follows.

Comments: Many commenters expressed strong support for Secretary McMahon’s proposed supplemental priority on Advancing Artificial Intelligence (AI) in Education, outlining a vision for preparing students and teachers for an AI-driven future. A significant number of commenters, including families and educators, appreciated the Department’s leadership to incorporate AI literacy and technology into education, recognizing its potential to prepare students for an advanced-technology-driven workforce. Many commenters expressed general support for the priority’s emphasis on AI literacy, professional development, and integration into existing educational systems. Some commenters stated that the priority reflects a thoughtful understanding of where advanced technology can be most impactful, and these efforts are essential to building a future-ready workforce and ensuring that American students are not only users of AI technologies, but also active creators and innovators. A few commenters stated that the Department’s forward-thinking priority aligns with the belief that the most impactful learning experiences happen when cutting-edge technology is guided by the skill, insight, and empathy of human educators. Some commenters applauded the Department for advancing the goal of ensuring all our youth and educators have opportunities to learn about and engage with AI.

Some commenters stated that technological advances of AI technology can increase administrative efficiencies and promote effective teaching practices and student learning, which would free up institutional resources for enhanced student engagement and improve measurable student outcomes.

Discussion: The Department appreciates the support for the priority of advancing AI in education. We agree with the commenters that efficiencies can come from AI technology, which can lead to improved student outcomes. We are adding section (b)(xi) to the

priority to more broadly recognize the potential for building evidence of increased efficiencies and improved program outcomes by use of AI technology across the Department's programs.

Changes: We added a section (b)(xi) "The use of AI technology to improve program outcomes" to the priority.

Comments: Many commenters expressed general opposition to the proposed priority. Some commenters voiced strong opposition to advancing AI technologies in K–12 classrooms and urged the Department to prevent children from using AI. Several commenters stated that use of AI technology in education is dangerous because it is unstudied and unregulated, and noted that untested AI tools could be harmful for children.

Multiple commenters stated that children's basic academic skills need to be developed before they start using AI. In addition, some commenters expressed their opposition to the priority because of potential cognitive and emotional harm to children, particularly for children and students who are in their ongoing development of basic cognitive skills, critical thinking skills and emotional intelligence.

Some commenters urged the Department not to allow AI into classrooms because they claim that the research points to lower educational outcomes and higher environmental costs for children, and scientific studies have demonstrated the danger and lack of utility for AI in education.

One commenter stated that the Department does not have the right to give children technology that has not been diligently tested to be safe and effective.

Discussion: The comments submitted to the Department reflect an important dialogue about the role of AI in education. While there are strong calls for innovation and the integration of AI literacy, there is also a need for a commitment to preserving the essential human elements of teaching and learning. It is important to note that by finalizing this priority, the Department is not directly providing students with AI technology. Families and educators may consider the potential benefits of AI with the imperative to protect students' mental health and privacy. While the Department appreciates the comments that expressed their opposition to the Secretary's proposed priority, the Department believes that to ensure the United States remains a global leader in this advanced technology, the Department must provide our Nation's youth with opportunities to learn how to use AI

technology effectively to enable them to be competitive in a rapidly evolving technical workforce. Educators would play a critical role in using AI as a tool in ways that expand access to high-quality learning opportunities that connect with student interests. The Department also believes that it is critical for every American to have the opportunity to learn about AI in ways that are age-appropriate, fostering a culture of innovation and critical thinking that will solidify our Nation's leadership in the AI-driven future.

Changes: None.

Comments: Many commenters made recommendations about evidence building of effectiveness of AI technology.

Multiple commenters recommended that the Department establish clear accountability in evidence building, including requirements for vendors to provide comprehensive data governance policies that transparently detail how student data will be collected, used, protected, and destroyed, and whether it will be used to train AI models.

Several commenters recommended that the Department provide funding for school-district-level pilots to build evidence of success and to measure impacts of AI education, paired with scalable professional development for educators.

Some commenters recommended that the Department develop or support an evaluation framework of evidence building for AI integration in education. The commenters stated that the framework could help grant recipients assess tools for AI-related data safety, evidence-based practices, accessibility, usability, and interoperability.

Discussion: The Department appreciates these comments that emphasize the need to build evidence about what works and ongoing support for teachers and administrators to ensure that AI serves as a beneficial tool in education. As with any new and innovative practice or technology, building evidence to understand what works is important in the use of AI in education. The Department will consider whether and how to use evidence components in each grant competition, consistent with program authority, where this priority is used.

Changes: None.

Comments: Many commenters made recommendations for revisions to the proposed priority to strengthen students' data privacy and security, with suggestions for requirements about safeguards, including privacy, cybersecurity, student data protection, guidelines, and oversight to ensure ethical and effective AI usage with

comprehensive training for educators on the ethical use of AI.

Additionally, some commenters suggested school districts should be required to vet and disclose the AI technology vendor's privacy policies and data-sharing practices.

Many commenters offered recommendations to address safety and privacy related to integration of AI in education.

Numerous commenters emphasized the necessity of obtaining parental consent before employing AI tools in educational settings. Some commenters stated that parental consent is essential to AI in K–12 education, because of the Children's Online Privacy Protection Act (COPPA) and Family Educational Rights and Privacy Act (FERPA), and recommended the Department mandate parental notification requirements and opt-out provisions as a standard when AI tools are implemented in schools.

Some commenters stressed the importance of safety considerations in dealing with AI models in schools. One commenter stated the importance of security considerations for the use of AI in education, and that any AI project in education should include data security, securing the AI model itself, a secure AI supply chain, and safe and secure use of AI by staff and students. The commenter suggested revisions to the priority to include these considerations.

Some commenters stated that the first considerations in integrating AI technology in education must be to maximize safety and privacy.

Discussion: Thank you to all the commenters who noted the importance of student privacy, the role of families, and safeguards around AI technology in K–12 classrooms. The Department is committed to upholding all student privacy protections under law and the central role of families in the education of their children. The Department believes that how best to ensure safety and communicate about technology use is optimally decided at the state and local level and declines to enact requirements at the federal level.

Changes: None.

Comments: Some commenters recommended that AI systems used in schools must have protection for cybersecurity, and student data must never be shared, exploited, or used inappropriately by vendors or platforms. Some commenters suggested inclusion of industry recognized standards for cybersecurity for AI related projects in schools would help ensure K–12 education entities are utilizing AI in a way that is safe and secure for both students and staff.

Some commenters recommended the Department provide support on professional training on cybersecurity to help school systems shore up their cybersecurity programs to prevent the targeting of schools.

Discussion: The Department appreciates these comments and recommendations and agrees that schools should ensure a strong cybersecurity posture that protects student data privacy, including AI usage.

Changes: None.

Comments: Many commenters stressed the importance of connections between students and educators and argued that introducing AI in classrooms would reduce the interactive time between students and teachers by increasing screen time above current levels. Some commenters stated that according to American Academy of Child and Adolescent Psychiatry's research (AACAP 2025), children already spend an average of 7.5 hours a day on screens for non-school activities.

Discussion: The Department thanks to all the commenters who expressed concerns about students' screen time. The Department agrees with the comments on the importance of connections between students and educators. Families and educators are best positioned to consider the potential benefits of AI with the imperative to protect students' overall well-being, including the appropriate management of screen time.

Changes: None.

Comments: Many commenters called for age-appropriate AI learning for children and recommended that the Department define clear age-appropriate AI learning policies in the priority for how students at all grade levels in K–12 education may learn AI in schools appropriately, effectively and safely.

Some commenters recommended that the Department establish national standards for children's AI literacy instruction. The commenters recommended that to ensure age-appropriate AI education, training for educators on clear ethical frameworks should be provided before AI tools are introduced in classrooms and child development experts and family representatives should be included in any future policymaking on AI in education.

One commenter recommended adding a new provision in the proposed priority as (a)(xi): Support age-appropriate AI education methodologies that emphasize foundational concepts and critical thinking skills while considering developmental readiness and students' safety factors in tool selections.

Discussion: The Department appreciates the comments and agrees with the commenters on the importance of age-appropriate AI literacy teaching in K–12 education. We made changes to the priority based on the commenters' recommendations. The Department believes decisions about what is age-appropriate are best made by families and those closest to the students and therefore declines to establish national standards.

Changes: We inserted words “age-appropriate” in the paragraph of (a)(ii) of the Proposed Priority, and added a new paragraph of (a)(xi) “Provide support and training to educators on age-appropriate AI education methodologies that emphasize foundational concepts in AI literacy and critical thinking skills while considering developmental readiness and students' safety factors in AI tool selections in K–12 education.”

Comments: Some commenters suggested the Department provide funding to support AI-related projects, including funding AI-related rural-specific capacity building projects.

To ensure educational integrity and success of AI-related initiatives in schools, one commenter urged the Department to support state pilots and demonstration projects that would allow AI-driven accommodation on standardized tests based on functional need rather than diagnosis.

Several commenters recommended the Department provide funds to support technical assistance (TA) for advancing AI in education.

Some commenters expressed strong support for the Department to provide TA to teachers, school leaders, and education agencies on advancing AI in education. The commenter recommended that TA to educators and administrators be provided through professional development for educators and school administrators alongside pilot programs to build their professional knowledge, skills and confidence in AI literacy and technologies. The commenter believed that TA to educators would help ensure success of the AI implementation in education.

One commenter recommended the Department prioritize funding for providing TA to State Educational Agencies (SEAs) and Local Educational Agencies (LEAs) to help them develop educational AI policies and guidance.

One commenter recommended including a new paragraph addressing TA in the priority and proposed language for use in the priority to reflect this recommendation.

Another commenter recommended that the Department funds a TA Center for AI Security in Education. The commenter stated that the TA center for AI Security could focus on providing AI-specific privacy and security TA to schools, which would provide invaluable guidance to educational entities at all levels, including those in rural communities, helping them implement AI responsibly and securely.

Discussion: The Department thanks the commenters for the recommendations for providing financial support for pilots and demonstrations to build evidence of the impact of AI education, and funding for TA to schools/grantees to ensure the success of advancing AI in education. We believe that the provision in paragraph (a)(x) could be used for evidence-building activities that could include pilots and demonstration projects. The Department will consider how to use the priority to fund projects to support schools in advancing AI in education in future grant opportunities.

Changes: None.

Comments: Multiple commenters stressed the importance of ethical design of AI projects in education.

One commenter suggested that rigorous testing for bias in AI models to be used in education should be mandatory.

Several commenters recommended that the Department clarify that all grantees must comply with all Federal education, disability, and civil rights laws and consider the necessary legal and ethical considerations to ensure AI is responsibly implemented in school systems.

Some commenters suggested that the Department make clear that AI adoption should not be evaluated solely by efficiency or automation metrics, but by its demonstrated impact on student engagement, learning progress, and readiness for future opportunities.

One commenter recommended mandatory documentation requirements for AI projects, including documentation of AI data sources, limitations, and biases for high-stakes decisions (such as grading, placement, evaluations), including required vendor-neutral guardrails with bias-testing for AI technologies that will be implemented in educational settings. In addition, one commenter recommended legal and ethical considerations in the use of generative AI in content creation as it could raise concerns around copyright, authorship, liability, and clinical validity.

Discussion: The Department agrees with the commenters on the importance of ethical design of AI projects in

education and that it is essential for grantees to comply with all federal education, disability, and civil rights laws and consider the necessary legal and ethical considerations to ensure AI is responsibly implemented in school systems. The Department accepts the recommendation to stress the importance of ethical design and implementation of AI project in education. The Department also agrees with the commenters that AI adoption should not be evaluated solely by efficiency or automation metrics, but by its demonstrated impact on student engagement, learning progress, and readiness for future opportunities. We did not accept all recommended changes because we believe that the Department's July 2025 Guidance on the Use of Federal Grant Funds to Improve Education Outcomes Using Artificial Intelligence (AI) addresses many of these issues. For example, the guidance outlines how AI may be used across key educational functions including training educators, providers, and families to use AI tools effectively and responsibly. In addition, the guidance specifically indicates that stakeholders, especially parents, should understand how systems function and participate meaningfully in decisions about the adoption and deployment of new technologies. In addition, grant requirements can be found in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, in the Education Department General Administrative Regulations (EDGAR), and other applicable laws, regulations, and federal policies that address the concerns of commenters. For example, in EDGAR (§ 75.623), grantees are required to ensure that any publishing or copyright agreements concerning submitted articles fully comply with the regulations, and § 200.334 require that grantees and subgrantees in their contracts must contain provisions that permit federal agencies to access records and awarding agency requirements and regulations pertaining to copyrights and rights in data. We already have grant requirements, and these requirements would be applicable to Department funded AI projects in education and ensure grantees meet federal laws and regulations. If this priority is used for future competitions, applicable grant requirements would be specified in a notice inviting applications based on the requirements of that program; and projects funded through discretionary grants using this priority must already adhere to the applicable federal education, disability, and civil rights

laws and regulations regarding documentation. Therefore, adding requirements on project documentation would be duplicative of existing laws and regulations, including federal grants management regulations, policies and guidance.

Changes: We made changes to the text of paragraph (b) by inserting words “and ethical” in the text.

Comments: Multiple commenters stressed the importance of universal design or inclusive design of AI projects in education. These commenters argued that AI projects or AI tools being funded should be accessible, bias-aware, and inclusive of multilingual learners, students with disabilities, and lower-resourced communities. The commenters suggested that the requirements should include universal design to ensure all students, including those students with demonstrated academic barriers and those with disabilities, can access, learn, and/or use AI technology.

Discussion: The Department appreciates these comments and agrees with commenters on the importance of accessibility and universal design¹ of AI projects in education. In the Department-issued Guidance on the Use of Federal Grant Funds to Improve Education Outcomes Using Artificial Intelligence (AI) (July 2025), the Department recommended that AI tools or systems should be accessible for those who require digital accessibility accommodations, including children, educators, providers, and family members with disabilities. The Department believes that the use of AI technology should be accessible and effective for all students and supports projects to achieve this goal. The Department accepts commenters' recommendations to stress the importance of accessibility and universal design in advancing AI in education. Therefore, we are adding a paragraph (x) under paragraph (b) of the priority to support incorporation of the principles of universal design for learning.

Changes: We added a new paragraph of (b)(x) “Incorporate the principles of universal design for learning (as ascribed it in section 103(24) of the Higher Education Act of 1965, as amended).”

¹ Universal design (29 U.S.C. 3002: Definitions): The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

Comments: Several commenters suggested revisions to expand or clarify the definition of AI and not relying on the meaning set forth in 15 U.S.C. 9401(3). The commenters stated that just referring to a legal reference as AI definition lacks clarity. They recommended revising the AI definition to include that AI as technology that can not only answer questions but also make decisions based on human intelligence.

Discussion: While the Department appreciates the comments regarding the definition of AI, the Department believes that using this definition as specified in the statute is most appropriate as it has been widely used in other federal documents and executive orders.² For example, in the three of President Trump's executive orders, including Removing Barriers to American Leadership in Artificial Intelligence (January 23, 2025), Advancing Artificial Intelligence Education for American Youth (April 23, 2025), and Unlocking Cures for Pediatric Cancer with Artificial Intelligence (September 30, 2025), use the same AI definition. The priority's use of this definition maintains consistency in implementation of federal AI policy.

Changes: For clarity, we have included the text of 15 U.S.C. 9401(3) in the footnote of the final priority.

Comments: One commenter commended the Department's leadership in elevating the importance of AI literacy, by stressing responsible use and innovation in education in the definition. Some commenters suggested revising the definition of AI literacy to emphasize critical inquiry, ethical interrogation, and the socio-political impact of AI systems. Some commenters suggested that the Department adopt a definition that supports interdisciplinary approaches to AI literacy. Another commenter recommended adding stronger emphasis on durable skills to include critical thinking, collaboration, problem solving, and creativity.

One commenter said that a technically skilled population that is prepared to operate AI tools, but that does not have civic awareness and ethical reasoning, would not support a strong American role in the use of AI. The commenter emphasized the

² See President Trump's Executive Order Advancing Artificial Intelligence Education for American Youth, Executive Order 14277 (Apr. 23, 2025), Sec. 3. Definition: For the purposes of this order, “artificial intelligence” or “AI” has the meaning set forth in 15 U.S.C. 9401(3). <https://www.whitehouse.gov/presidential-actions/2025/04/advancing-artificial-intelligence-education-for-american-youth/> (Accessed March 9, 2026).

importance of thinking critically about AI's political, cultural, and regional impacts.

One commenter recommended refining the definition of AI literacy to read as "AI literacy is the knowledge and skills that enable humans to critically understand, evaluate, and use AI systems and tools to safely and ethically participate in an increasingly digital world."

Discussion: The Department appreciates these comments, suggestions, and recommendations. We agree on the importance of ethical reasoning, critical social inquiry, interdisciplinary problem-solving, and creativity in AI literacy for career readiness and responsible use and have revised the definition of AI literacy to include reference to these factors. However, we did not accept other recommended changes to this definition, as we believe that the proposed definition allows for AI literacy to be flexibly applied across the Department's programs, and that commenters' other proposed additions would result in a more cumbersome of proscriptive definition.³

Changes: We have revised the definition by inserting "including AI related ethical reasoning, critical social inquiry, interdisciplinary problem-solving, and creativity," before "required to thrive in a world influenced by AI."

Comments: Some commenters appreciated the Department's recognition of the importance of foundational computer science as an essential component of meaningful AI literacy in the proposed priority. Some commenters recommended expanding the definition for the purpose of this priority to include language about "computer science education" and to clarify that computer science education should be inclusive and accessible, with real-world applications, and be taught by qualified educators; and to include language about personalized computer science learning opportunities that extend from classrooms into homes. Another commenter suggested to include "digital literacy" or "media literacy" as knowledge and skills required for computer science education. The commenter stated that though things like browsing the internet and using software tools do not fall within the definition of computer science—these skills are required and

critical to be able to access AI learning materials.

One commenter suggested that the Department should expand the definition of computer science to explicitly recognize the study or practice of AI literacy as an essential component of this term.

Discussion: While the Department appreciates the comments on the definition of computer science, the Department believes that the proposed definition of computer science is appropriate for the purpose of this priority. Real-world applications are included in the proposed definition, and computer science education is implied in the proposed definition, so the Department believes no updates are needed to respond to these comments. Similarly, we find that the other suggested updates would not meaningfully expand the definition of computer science, as the current examples of what computer science "often" includes and "does not involve" have sufficient overlap with the more specific feedback raised by commenters. We also find that a more explicit inclusion of AI literacy within the definition of computer science is unnecessary, given that the proposed definition already makes reference to AI more broadly.

Changes: None.

Comments: Several commenters suggested adding additional definitions for the priority. The suggested or proposed additional definitions include "AI Agency," "AI fluency," "Creative AI Co-Creation," "Career and Technical Education," "Dual Enrollment," "Educational Choice," "Elementary Education," "families and caregivers," "Generative AI," "high impact tutoring," "Innovation in Education," "media literacy," "Metacognitive Thinking (with AI)," "Postsecondary Education," "Prompting (in AI contexts)," "Responsible Ethical Safe AI Use," "Secondary Education," "Supplemental Educational Services," and "statistics."

Discussion: The Department appreciates these suggestions. However, the Department notes that many of the suggested definitions already appear within authorizing statutes applicable to Department programs. For example, the term of "Career and Technical Education" has been defined in the Carl D. Perkins Vocational and Technical Education Act of 1998, as amendment (20 U.S.C. 2301 *et seq.*); the term of "Elementary Education" is part of the definition of "elementary school," which is defined in the Section 7013 of the Elementary and Secondary Education Act of 1965, as amended

(Through P.L. 118–159, Enacted December 23, 2024) (ESEA); and the term of "Secondary Education" is part of the definition of "secondary school," which is defined in the Section 8101(45) of the ESEA. The Department does not believe it is necessary to add any of the suggested additional definitions under the priority because the Department believes the proposed definitions would limit flexibility in how the priority could potentially be used, and may be more appropriately supplemented by a non-binding note or invitational priority clarifying the Department's intended application of the priority within a particular program or competition.

Changes: None.

Final Priority

The Secretary establishes the following priority for use in any Department discretionary grant program.

Priority: Advancing Artificial Intelligence in Education

Projects or proposals to do one or more of the following:

(a) Expand the understanding of artificial intelligence through one or more of the following:

(i) Support the integration of AI literacy skills and concepts into teaching and learning practices to improve educational outcomes for students, including how to detect AI-generated disinformation or misinformation online;

(ii) Expand offerings of age-appropriate AI and computer science education in K–12 education;

(iii) Expand offerings of AI and computer science courses as part of an institution of higher education's general education and/or core curriculum;

(iv) Embed AI and computer science into an institution of higher education's general preservice or in-service teacher professional development or teacher preparation programs;

(v) Provide professional development for educators on the integration of the fundamentals of AI into their respective subject areas;

(vi) Provide professional development in foundational computer science and AI, preparing educators to effectively teach AI in stand-alone computer science and other relevant courses, including instruction about how to use AI responsibly;

(vii) Partner with State educational agencies or local educational agencies to encourage the offering of dual-enrollment course opportunities to earn postsecondary credit or industry-recognized credentials in AI coursework concurrent with high school education;

³ In the President's executive order Preventing Woke AI in the Federal Government (July 23, 2025) Sec. 4. (a)(iii): "avoid over-prescription and afford latitude for vendors to comply with the Unbiased AI Principles and take different approaches to innovation."

(viii) Create opportunities for high school students through the development or expansion of AI courses and career-relevant, in-demand certification programs;

(ix) Support dissemination of appropriate methods of integrating AI into education;

(x) Build evidence of appropriate methods of integrating AI into education; or

(xi) Provide support and training to educators on age-appropriate AI education methodologies that emphasize foundational concepts in AI literacy and critical thinking skills while considering developmental readiness and students' safety factors in AI tool selections in K–12 education.

(b) Expand the appropriate and ethical use of AI technology in education through one or more of the following:

(i) Use AI to support K–12 or postsecondary instruction, supplemental learning, or other assistance or resources to students who are gifted and talented (as defined in 20 U.S.C. 7801(27)), or those who are otherwise in need of accelerated or other advanced learning opportunities;

(ii) Use AI to support K–12 or postsecondary instruction, supplemental learning, or other assistance or resources to students who are below grade level, in need of remedial or developmental education, struggling to graduate with a regular credential from their education program, or otherwise in need of additional assistance to complete their program of study;

(iii) Use AI to support early intervention, K–12, or postsecondary instruction or services, including early intervention, special education and related services, for children and students with disabilities and their families;

(iv) Integrate AI-driven tools into classrooms to personalize learning, improve student outcomes, and support differentiated instruction. This integration may include, but is not limited to, adaptive learning technologies, virtual teaching assistants, tutoring, and data analytics tools to support student progress;

(v) Provide resources and support to grantees for the use of AI in teaching and/or tutoring in an education program or teacher training program;

(vi) Provide resources and support for the use of AI in teacher preparation programs;

(vii) Use AI technology to improve teacher training and evaluation;

(viii) Promote efficiency in classroom and school operations through the

application of AI technologies that reduce time-intensive administrative tasks;

(ix) Use AI technology to provide high-quality instructional resources, high-impact tutoring, college and career pathway exploration, advising, and navigation to improve educational outcomes; or

(x) Incorporate the principles of universal design for learning⁴ (as ascribed it in section 103(24) of the Higher Education Act of 1965, as amended).

(xi) The use of AI technology to improve program outcomes.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Definitions

The Secretary establishes the following definitions for use in any Department discretionary grant program in which the final priority is used.

Artificial intelligence (AI)⁵ has the meaning set forth in 15 U.S.C. 9401(3).

⁴ Universal design for learning (20 U.S. Code § 1003—Additional definitions): The term “universal design for learning” means a scientifically valid framework for guiding educational practice that—(A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and (B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.

⁵ 15 U.S.C. 9401(3) defines “artificial intelligence” (AI) as: “a machine-based system that

Artificial intelligence (AI) literacy means the technical knowledge, durable skills, civic awareness and future ready attitudes, including AI related ethical reasoning, critical social inquiry, interdisciplinary problem-solving, and creativity, required to thrive in a world influenced by AI. It enables learners to engage, create with, manage, and design AI, while critically evaluating its benefits, risks, and implications.

Computer science means the study of computers and algorithmic processes, including their principles, their hardware and software designs, theories, computational thinking, coding, analytics, applications, machine learning, and Artificial Intelligence (AI).

Computer science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information. In addition to coding, the expanding field of computer science emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation to the digital world.

Computer science does not involve using computers for everyday tasks, such as browsing the internet or using tools like word processors, spreadsheets, or presentation software. Instead, it focuses on creating and developing technology, not just utilizing it.

Executive Orders 12866, 13563, and 14192

Regulatory Impact Analysis: This regulatory action is not a significant regulatory action subject to review by the Office of Management and Budget under section 3(f) of Executive Order 12866. These priorities are not considered an “Executive Order 14192 regulatory action.” We have also reviewed this regulatory action under Executive Order 13563. We are issuing the priorities and definitions only on a reasoned determination that their benefits would justify their minimal costs. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563. We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their

can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.”

governmental functions. In accordance with these Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined are necessary for administering the Department's programs and activities.

Discussion of Costs and Benefits: The priorities and definitions would impose no or minimal costs on entities that receive discretionary grant award funds from the Department. Additionally, the benefits of implementing the priorities and definitions outweigh any associated costs, to the extent these de minimis costs even exist, because the priorities and definitions would result in higher quality grant application submissions. Application submission and participation in competitive grant programs that might use the priorities and definitions is voluntary. We believe, based on the Department's administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of these priorities and definitions. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants that earn a grant award, including small entities.

Intergovernmental Review: This action is subject to Executive Order 12372 and the regulations in 34 CFR part 79. This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification: This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Secretary certifies that this regulatory action would not have a substantial economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Paperwork Reduction Act: The priorities and definitions do not contain

information collection requirements or affect a currently approved data collection.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or another accessible format.

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

Linda McMahon,

Secretary of Education.

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DEPARTMENT OF EDUCATION

34 CFR Part 75

[Docket ID ED-2025-OS-0679]

Final Priority and Definitions—Secretary's Supplemental Priority and Definitions on Career Pathways and Workforce Readiness

AGENCY: U.S. Department of Education.

ACTION: Final priority and definitions.

SUMMARY: The Department of Education (Department) announces a final priority and definitions for use in currently authorized discretionary grant programs or programs that may be authorized in the future. The Secretary may choose to use the entire priority for a grant program or a particular competition or use one or more of the priority's component parts. This priority and definitions augment the initial set of three Secretary's Supplemental Priorities on Evidence-Based Literacy, Educational Choice, and Returning Education to the States published as final priorities on September 9, 2025; the additional Secretary's Supplemental Priorities on Meaningful Learning Opportunities, published as a final priority on February 12, 2026, and Advancing Artificial Intelligence in Education, published as a final priority elsewhere in this issue of the **Federal**

Register; and the additional proposed Secretary's Supplemental Priority on Promoting Patriotic Education published as a proposed priority on September 17, 2025.

DATES: The final priority and definitions are effective May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Zachary Rogers, U.S. Department of Education, 400 Maryland Avenue SW, Room 7W213, Washington, DC 20202-6450. Telephone: (202) 260-1144. Email: SSP@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Purpose of this Regulatory Action: On September 25, 2025, the Department published a notice of a proposed supplemental priority and definitions (NPP) in the **Federal Register** (90 FR 46111). This final priority and definitions may be used across the Department's discretionary grant programs.

Summary of the Major Provisions of This Regulatory Action: Through this regulatory action, we establish one supplemental priority and associated definitions. Each major provision is discussed in the *Public Comment* section of this document.

The NPP contained background information and our reasons for proposing the priority and definitions. The Department describes the differences between the proposed priority and definitions and those established as final in this notice of final priority and definitions (NFP), as discussed in the *Analysis of Comments and Changes* section in this document.

Program Authority: 20 U.S.C. 1221e-3, 3474.

Public Comment: In response to our invitation in the NPP, the Department received comments from 176 commenters on the proposed priority and definitions.

Generally, we do not address technical and other minor changes or suggested changes that the law does not authorize us to make under applicable statutory authority. In addition, we do not address general comments regarding concerns not directly related to the proposed priority or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority and definitions since publication of the NPP follows.

General Comments

Comments: Many commenters expressed general support for the proposed priority on Career Pathways

and Workforce Readiness. Commenters indicated that the priority addresses timely workforce challenges and reflects the need for stronger alignment between education and employment systems. Several commenters stated that the priority appropriately emphasizes preparation for careers in a changing economy and supports learners in developing skills relevant to current labor market needs. Some commenters noted that the priority aligns with existing best practices in education, workforce development, and career-connected learning, while others expressed appreciation for the Department's focus on employable skills, career exploration, and pathways to high wages.

Several commenters also indicated that the priority complements ongoing federal, state, and local workforce initiatives and could strengthen coordination across education and workforce systems. These commenters supported the Department's approach and encouraged its implementation.

Analysis: We appreciate the commenters' general support for the Career Pathways and Workforce Readiness priority. The comments reflect broad agreement that the priority addresses critical workforce needs and aligns with current practices in the field. Commenters' support affirms the importance of connecting education to labor market needs and preparing individuals to succeed in an evolving economy. The Department recognizes that the priority's emphasis on career connected learning and workforce readiness is responsive to stakeholder input and consistent with the goals of strengthening economic opportunity and workforce participation. We appreciate the input and general support from these commenters.

Changes: None.

Comments: Many commenters urged the Department to explicitly name adult learners in the Career Pathways and Workforce Readiness priority. Commenters emphasized that workforce challenges extend beyond the K–12 system and that working-age adults represent a critical segment of the current and near-term labor force. Several commenters noted that limiting eligibility or emphasis to K–12 students would exclude millions of adults who are motivated to work but lack foundational skills or credentials. A few commenters described the broader economic and social impacts of adult education, including increased earnings, reduced reliance on public assistance, improved family stability, and intergenerational benefits. Several commenters shared examples of adult

learners earning credentials, securing employment, and supporting their families more effectively because of adult education programs.

Analysis: We appreciate commenters' strong and consistent support for the inclusion of adult learners. The comments demonstrate broad agreement that workforce readiness initiatives should address the needs of working age adults. Commenters provided evidence through anecdotes focused on students with whom they had worked to indicate that adult education programs function as essential onramps to employment, postsecondary education, and training. The Department recognizes that including adult learners aligns with the stated purpose of preparing individuals to thrive in a dynamic and evolving economy.

Changes: We are revising the priority to add adult learners in part 4 to ensure that adult learners can benefit from the opportunities included within this priority, and the definition of talent marketplace, subpart (c) refers to students as learners to include both youth and adults.

Comments: Many commenters emphasized that literacy, numeracy, digital skills, problem-solving, and critical thinking are foundational to workforce readiness. Commenters were concerned about and cautioned against defining program success solely by short-term employment outcomes, noting that such an approach risks placing learners into low-wage jobs without long-term mobility. Several commenters stressed that educational skill gains should remain a required and measurable outcome within career pathway initiatives.

Analysis: We appreciate commenters' emphasis on foundational skills as the basis for sustained employment and career advancement. The comments reflect a shared understanding that workforce readiness depends on more than technical training alone and that strong educational foundations enable individuals to adapt to the evolving workforce. The Department acknowledges that maintaining a focus on educational skill development supports long-term economic mobility and aligns with the goals of career pathway models. We believe that while this is deeply relevant to this content, the priority captures the intent of these comments and additional language based on the recommendation is not needed.

Changes: None.

Comments: Numerous commenters highlighted apprenticeships, pre-apprenticeships, and other work-based learning models as effective

mechanisms for connecting education to employment. Commenters shared that these experiences allow learners to apply academic skills in real world settings while developing skills that make learners more employable. Those commenters emphasized that those work-based learning opportunities should be paid and offered with flexible scheduling to accommodate adult learners balancing work, family, and educational responsibilities. The commenters also encouraged clearer alignment between pre-apprenticeships and registered apprenticeships. One commenter recommended a focus on apprenticeships for teachers to support State and local workforce systems. The commenter highlighted various teacher shortage areas, like special education, and saw apprenticeships as a tool to prepare teachers, especially instructional assistants, career changes, and other individuals.

Analysis: We appreciate commenters' support for work-based learning as a component of effective career pathways. The comments highlight the importance of designing these opportunities in ways that are supportive of all learners, including those with financial and scheduling constraints. The Department agrees with the importance of creating paid work based learning opportunities and recognizes that intentional alignment between education, training, and employment can strengthen workforce readiness and improve learner outcomes; including via paid opportunities for learners. The Department also acknowledges the effectiveness of teacher apprenticeship programs as a mechanism for preparing educators and addressing a workforce shortage area.

Changes: In order to address these comments around the importance of paid opportunities for learners, specifically educator apprenticeships, we have added a new subpart (e) to the priority to provide intentional focus on the inclusion of paid apprenticeships for educators.

Comments: Many commenters cited persistent workforce shortages across multiple industries and reported that employers struggle to find workers with appropriate skills, citing skills gaps as the reason for the workforce shortages, rather than a lack of interested potential workers. Several commenters described the desire for education programs that collaborate directly with employers to align instruction with labor market needs.

Analysis: We appreciate commenters' insights regarding labor market conditions and employer demand. The comments illustrate a clear connection

between workforce shortages and gaps in education and training. The Department acknowledges that career pathways and workforce readiness initiatives should be informed by labor market data and employer engagement while ensuring that learners gain transferable skills that support long-term adaptability. We believe these elements are already permitted within the language of the priority and decline to make changes.

Changes: None.

Comments: Some commenters raised concerns related to access, particularly concerning adult learners who are low income, or who have limited English proficiency, prior educational disruption, or lack of digital access. Commenters stressed the importance of providing access to devices, broadband, and digital literacy instruction to said adult learners to decrease any access gaps. Several commenters cautioned that without intentional design, career pathway initiatives could exclude the learners most in need.

Analysis: We appreciate the commenters' focus on access. The comments highlight the importance of designing education and workforce programs that are accessible for all participants. The Department recognizes that supportive program design and attention to digital access are essential to ensuring that career pathways support all learners and contribute to broader economic participation and, if authorized by program statute, such design may be included in their project submissions to grant competitions.

Changes: None.

Comments: A couple of commenters emphasized the importance of flexibility and learner choice within career pathways. These commenters cautioned against approaches that pressure learners into specific pathways or discourage postsecondary education options. Commenters advocated for pathways that allow individuals to pursue careers aligned with their interests, strengths, and long-term goals.

Analysis: We appreciate commenters' emphasis on learner-centered approaches. The comments highlight the importance of offering flexible pathways for learners. The Department recognizes that flexible, choice-driven pathways can better support learner engagement and long-term success. We believe that the priority captures the intent of these comments and that additional language based on the recommendation is not needed.

Changes: None.

Comments: One commenter wrote with concern about the finality of the priority and asked the Department not

to finalize the priority until it (1) completes a meaningful regulatory impact review under Executive Orders 12866 and 14094; (2) conducts or properly certifies a Regulatory Flexibility Act analysis; (3) identifies and seeks Paperwork Reduction Act clearance for new information collection burdens the proposal would create; and (4) clarifies our Unfunded Mandates Reform Act determination. The commenter also requested information about programs likely to use the supplemental priority and definitions in FY 2026–2028 as well as information on the estimated number of applicants and awards per program.

Analysis: We appreciate the commenter's review of the proposed priority and their attention to statutory requirements and direction of certain Executive Orders. While each of the laws and Executive Order are relevant to the work of Federal agencies, for this public comment, they would not be evaluated against the substance of the priority. On January 20, 2025, Executive Order 14094 was rescinded, and its direction is not in effect. The Department continues to conduct analysis pursuant to Executive Order 12866; see the regulatory impact analysis section below. The Regulatory Impact Analysis section of the Notice of Proposed Priority explains that this priority is not a significant regulatory action under section 3(f) of Executive Order 12866 and that application submission and participation in competitive grant programs that might use this proposed priority and definitions is voluntary. Pursuant to the Unfunded Mandates Reform Act of 1995, agencies must assess the effects of Federal regulatory actions and whether the action imposes an enforceable duty upon State, local, or Tribal governments, or imposes a duty upon the private sector. Based on the analysis above, the Departments concluded there are no unfunded Federal mandates, as defined in 2 U.S.C. 658(6). We believe, based on the Department's administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of this proposed priority. Therefore, any potential costs to applicants would be de minimis. Paperwork Reduction Act clearance requirements would be determined if this priority is used in a grant competition, specifically in relation to the program's grant application package. The Department does not believe changes are necessary. For further information about programs that use the

supplemental priority and definitions in FY 2026–2028 as well as information on the number of applicants and awards per program, we would recommend setting up an alert in the **Federal Register** at <https://www.federalregister.gov/agencies/education-department> to receive updates on all grant opportunities.

Change: None.

Priority Element Comments

Comments: A few commenters supported activities aligned to State and local workforce priorities and emphasized the importance of tailoring workforce development efforts to regional labor market needs. Commenters noted that States are best positioned to identify priority industries and occupations and encouraged the Department to preserve flexibility for State and local implementation. Some commenters recommended clearer guidance on how States should demonstrate alignment with labor market data and workforce plans.

Analysis: We appreciate commenters' support for aligning workforce development activities with State and local priorities. The comments reflect broad agreement that locally informed approaches strengthen workforce relevance and effectiveness. The Department recognizes the importance of allowing States flexibility to respond to regional economic conditions while aligning activities with workforce demand. We agree with the commenters that States are best positioned to identify priority industries and occupations and believe the priority as written provides such flexibility.

Changes: None.

Comments: Several commenters supported cross-agency alignment among State education, higher education, workforce, vocational rehabilitation, and related agencies. Commenters emphasized that coordination reduces duplication, improves service delivery, and strengthens career pathways. Some commenters recommended explicit encouragement of shared data systems and joint planning processes.

Analysis: We appreciate commenters' strong support for alignment across State agencies that support workforce development. The comments underscore the value of coordinated service delivery and shared accountability. The Department recognizes that cross-agency collaboration can improve outcomes for learners and jobseekers.

Some commenters recommended explicit encouragement of shared data systems and joint planning processes.

The Department appreciates these suggestions and agrees that shared data infrastructure and coordinated planning can be valuable tools for strengthening collaboration and improving transparency and outcomes. However, we decline to make changes to the priority in response to these comments. The Department believes the current language already provides sufficient flexibility for States to implement shared data systems and joint planning processes in a manner that best reflects their governance structures, statutory authorities, and local needs. Maintaining this flexibility allows States to pursue alignment strategies that are most effective within their specific contexts while continuing to advance the goals of coordinated service delivery and shared accountability.

Changes: None.

Comments: Many commenters supported activities that help States identify and regularly re-evaluate lists of in-demand and high-value industry-recognized credentials. Commenters emphasized that credential lists must remain current and responsive to labor market changes. The commenters recommended that States engage employers and utilize sector partnerships in credential validation processes. A small number of commenters cautioned against overemphasis on short-term credentials without clear labor market value.

Analysis: We appreciate commenters' support for maintaining current and relevant credential lists. The comments highlight the importance of employer engagement and data-informed decision-making in credential identification. The Department recognizes the need to balance responsiveness to labor market demand with credential quality and portability and believes this can be done within the current language of the priority.

Changes: None.

Comments: A few commenters expressed support for increased attention to skilled trades, noting strong demand and clear pathways to high wages. Commenters highlighted construction, manufacturing, and infrastructure-related trades as areas of need. Some commenters recommended elevating skilled trades alongside postsecondary degree pathways to reduce stigma and increase participation.

Analysis: We appreciate commenters' support for skilled trades as an essential component of workforce development. The comments reflect recognition of the role skilled trades play in economic growth and infrastructure development. The Department acknowledges the

importance of promoting multiple high-quality pathways to employment. We believe that the priority as proposed captures the intent of the comment and therefore, we decline to include additional language within the priority.

Changes: None.

Comments: A few commenters supported industry-led sector partnerships as a mechanism for aligning education and training with employer needs. Commenters emphasized that employer leadership helps ensure relevance and sustainability. Some commenters recommended including labor organizations and community-based partners in sector partnerships to support access.

Analysis: We appreciate commenters' support for industry-led sector partnerships. The comments highlight the value of employer engagement and collaborative approaches to workforce development. The Department recognizes that inclusive partnerships can strengthen alignment and improve outcomes. We believe that the priority as proposed captures the intent of the comment and therefore, we decline to include additional language within the priority.

Changes: None.

Comments: Some commenters emphasized that credentials should lead to economic self-sufficiency and advancement and recommended measuring success not only by attainment, but also by employment and wage outcomes. A commenter observed that the recently authorized Workforce Pell Grants will expand access to affordable short-term programs that could lead to high-wage employment outcomes.

Analysis: We appreciate commenters' support for credential attainment aligned with labor market needs. The comments reflect a shared understanding that credentials are most valuable when they lead to meaningful employment and advancement. The Department recognizes the importance of aligning credential attainment with workforce outcomes and uses performance measures, at the programmatic level, to assess the attainment of those outcomes. We also agree with the commenter who highlighted the potential for Workforce Pell Grants to increase access to high-value short-term programs aligned to workforce demand. We further believe that supporting the development of such programs that are aligned with high-skill, high-wage, or in-demand industry sectors or occupations in their States, strengthens the connection in this

priority between credential attainment and labor market outcomes.

Changes: We added new subparts (ix) and (x) to enable the Department to support grantees in the development or expansion of short-term programs that meet Workforce Pell Grant requirements.

Comments: One commenter gave their support for the priority and requested that the Department pay more attention to helping talented students, especially those with special skills in areas like technology, design, or leadership. The commenter also noted that many of those particular students do not get the support or opportunities they need to reach their full potential. The recommendation highlighted that this may be done by adding priorities that offer mentorships, and making sure students have the opportunity to grow their abilities and succeed in future careers.

Analysis: We appreciate the commenter's support for the priority and agree that all students should have the opportunity to reach their potential through multiple pathways. We agree that mentorship, similar to internships, externships, and apprenticeships, provides such opportunities.

Changes: In order to incorporate the value of mentorships within the priority, we have edited subpart (a)(vii) to include mentorship as one of the options within work-based learning.

Comments: Some commenters emphasized that compensation or academic credit should be essential for access and participation, particularly for adult learners and low-income students. Commenters expressed support for paid work-based learning opportunities, including internships, externships, pre-apprenticeships, and registered apprenticeships.

Analysis: We appreciate commenters' strong support for paid work-based learning opportunities. The comments underscore the importance of access to experiential learning. The Department recognizes that compensated work-based learning can strengthen career readiness while reducing barriers to participation. We believe that the priority as proposed captures the intent of the comment and therefore, we decline to include additional language within the priority.

Changes: None.

Comments: Multiple commenters encouraged expanding apprenticeships beyond youth participation, with one commenter recommending a focus on apprenticeships to prepare individuals to become teachers, especially to support instructional assistants, career

changers, and others already working in education in this effort.

Analysis: The Department appreciates the value commenters place on apprenticeships. The Department recognizes that apprenticeships can be useful for all age groups and agrees that apprenticeship programs to prepare educators can be a beneficial approach to teacher preparation. As such, we added a new paragraph to the priority that focuses on teacher apprenticeships.

Changes: We added a new paragraph (e) to the priority on teacher apprenticeships.

Comments: Several commenters supported the use of apprenticeship intermediaries to expand and manage apprenticeship programs. Commenters noted that intermediaries can reduce administrative burden and increase employer participation.

Analysis: We appreciate commenters' support for apprenticeship intermediaries. The comments highlight the need to build State and employer capacity to implement apprenticeships effectively. We believe that the priority as proposed captures the intent of the comment and therefore, we decline to include additional language within the priority.

Changes: None.

Comments: Multiple commenters supported the creation of pre-apprenticeships as onramps to registered apprenticeships. Commenters emphasized their value for populations lacking prior exposure or prerequisites. Additionally, some commenters supported the creation of new registered apprenticeships, including those serving in-school and out-of-school youth and encouraged expansion into nontraditional sectors.

Analysis: We appreciate commenters' support for pre-apprenticeships as preparatory pathways. The priority as proposed includes several components highlighting pre-apprenticeships. Therefore, we decline to make additional changes to the proposed priority.

Changes: None.

Comments: A commenter recommended technical assistance to help States develop and scale apprenticeships. Commenters noted variation in State capacity and experience.

Analysis: We appreciate commenters' recommendations regarding technical assistance. The Department recognizes that capacity-building can support effective and supportive implementation and believes this can be done within the context of the current language of the priority.

Changes: None.

Comments: Many commenters supported providing career and college exploration and advising opportunities to increase awareness of postsecondary and career options. Commenters noted that exposure to a broad range of career pathways helps learners make informed decisions and reduces misalignment between education and employment. Several commenters emphasized the importance of beginning career exploration early and continuing it through adult learning.

Those commenters recommended that the advising opportunities should be grounded in labor market information and be accessible to learners with varying levels of educational attainment.

Analysis: We appreciate commenters' support for career and college exploration and advising. The comments reflect broad agreement that informed decision-making is essential to learner success and workforce alignment. The priority as proposed in subpart 4(b) includes language that supports this, and we therefore decline to make additional changes to the priority.

Changes: None.

Comments: A few commenters addressed the provision of financial tools to help learners compare the costs and benefits of educational and career pathways and noted that transparent information about tuition, student loan debt, and earnings outcomes can help learners make more informed choices and reduce the risk of unsustainable debt.

Several commenters stated financial tools present earnings data clearly and include information relevant to adult learners and first-generation students and cautioned that earnings data should be contextualized to avoid oversimplification.

Analysis: We appreciate commenters' support for tools that promote transparency regarding educational costs and labor market outcomes. The comments underscore the importance of helping learners understand the long-term financial implications of postsecondary and career decisions. The Department recognizes that accessible and accurate financial information can support informed decision-making and financial security, and applicants can include activities relating to this in project proposals if authorized in program statute.

Changes: None.

Comments: A few commenters supported the development of talent marketplaces that connect employers, students, and jobseekers through digital tools. Commenters noted that talent

marketplaces could improve alignment between education and workforce needs by translating credentials, learning experiences, and job requirements into discrete competencies. Several commenters also emphasized the potential of these systems to support skills-based hiring and improve transparency in credential value.

Analysis: We appreciate commenters' support for talent marketplaces as a strategy to strengthen connections among learners, employers, and education and training providers. The Department recognizes the potential of digital infrastructure to support skills matching and improve workforce alignment. We believe these elements are included within the language of the priority and decline to make changes.

Changes: None.

Comments: Some commenters specifically supported credential registries as a component of talent marketplaces. Commenters noted that centralized, State-maintained registries could improve transparency and help learners and employers understand credential value and recommended ensuring communication across systems and minimizing administrative burden for providers.

Analysis: We appreciate commenters' support for credential registries. The Department recognizes that transparent and interoperable registries can support informed decision-making and alignment with labor market needs. We believe these elements are included within the language of the priority and decline to make changes.

Changes: None.

Final Priority

The Department establishes the following priority for use in any Department discretionary grant program.

Priority

Projects or proposals that are designed to do one or more of the following:

(a) Support workforce development programs that are aligned with State priorities. This includes one or more of the following:

(i) Coordinating activities to local workforce priorities.

(ii) Activities that support alignment of workforce activities across State agencies that support workforce development (e.g., education, higher education, workforce transformation, job and family services, vocational rehabilitation services including pre-employment transition services and transition services).

(iii) Activities that support States in identifying in-demand and high-value

industry-recognized credentials and/or re-evaluating existing lists of credentials.

(iv) Providing support for the skilled trades.

(v) Developing industry-led sector partnerships.

(vi) Promoting the attainment by individuals of an in-demand and high-value industry-recognized postsecondary credential.

(vii) Providing work-based learning opportunities (e.g., internships, externships, pre-apprenticeships, registered apprenticeships, and mentorships) for which a student may receive wages and/or academic credit.

(viii) Expanding the availability of pre-apprenticeships and registered apprenticeships, including through dual or concurrent enrollment (as defined in 20 U.S.C. 7801(15)), by doing one or more of the following:

(1) Supporting apprenticeship intermediaries.

(2) Creating pre-apprenticeships.

(3) Creating new registered apprenticeships to include apprenticeships for in-school and out-of-school youth.

(4) Providing technical assistance for States to create new registered apprenticeships to include apprenticeships for in-school and out-of-school youth, as well as adult learners.

(ix) Supporting the development of new high-quality, short-term programs that meet the eligibility requirements of the Workforce Pell Grants program in Section 83002(b) of the Working Families Tax Cut Act (Pub. L. 119–21), including program length requirements and alignment with high-skill, high-wage, or in-demand industry sectors or occupations, as determined by the Governor in the state where the project is located.

(x) Supporting the expansion of high-quality, short-term programs that meet the eligibility requirements of the Workforce Pell Grants program in Section 83002(b) of the Working Families Tax Cut Act (Pub. L. 119–21), including program length requirements and alignment with high-skill, high-wage, or in-demand industry sectors or occupations, as determined by the Governor in the state where the project is located.

(b) Provide career and/or college exploration and advising opportunities to promote greater awareness of the range of postsecondary educational and career options.

(c) Provide opportunities for students to use financial tools to compare the cost and benefits of the career options and educational pathways they are

considering, including the long-term impact of taking out student loans on their financial security, including likely entry and mid-career earnings in fields selected by students as compared to entry and mid-career earnings in high-wage, high-growth, and high-demand occupations in each of the career clusters.

(d) Support the development of talent marketplaces (including credential registries, skills-based job description generators, and learning and employment records) that connect employers, students, and jobseekers by converting job descriptions and learning assertions into discrete, industry-recognized competencies.

(e) Prioritize and expand Registered Apprenticeships in education, including Registered Apprenticeships to prepare one or more of the following:

(i) Elementary educators,

(ii) Secondary educators, or

(iii) Special educators, including those serving infants, toddlers, preschoolers, children, or youth with disabilities by including one or more of the following:

(1) Supporting the development and expansion of Registered Apprenticeship programs designed to lead to educator certification.

(2) Creating targeted pathways for instructional assistants, paraprofessionals, substitute teachers, career changers, and other individuals already working in educational settings to earn teaching credentials and to become certified educators while employed.

(3) Aligning secondary and postsecondary educator-registered apprenticeship programs with State educator licensure requirements and workforce shortage areas.

(4) Providing technical assistance to school districts, educator preparation providers, institutions of higher education, and registered apprenticeship intermediaries to establish or expand Registered Educator Apprenticeship programs.

(5) Promoting earn-and-learn models through registered apprenticeships that reduce financial barriers and increase access to the teaching profession, particularly in high-need subject areas, including provision of:

(A) Paid work experience in a full-time position;

(B) A progression of wage increases; and

(C) Coursework that leads to certification, delivered to accommodate full-time work schedules.

Types of Priorities:

When inviting applications for a competition using one or more

priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a competition notice. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Definitions

The Secretary establishes the following definitions for use in any Department discretionary grant program in which the final priority is used.

Credential Registry, with respect to a component of a Talent Marketplace, means a digital repository and database, maintained by a State or State Workforce Agency, as defined at 29 U.S.C. 3225a(a)(8).

In-demand Industry Sector or Occupation, as defined in section 3(23) of the Workforce Innovation and Opportunity Act (WIOA), means (i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or (ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

Learning and Employment Record—

The term “Learning and Employment Record,” with respect to a Talent Marketplace, means a digital tool maintained by a State or State Workforce Agency, as defined at 29 U.S.C. 3225a(a)(8).

Recognized Postsecondary Credential means credential consisting of an

industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree, as defined in section 3(53) of WIOA.

Skills-Based Job Description Generator—The term “Skills-Based Job Description Generator,” with respect to a Talent Marketplace, means a digital tool, maintained by a State or a State Workforce Agency, as defined at 29 U.S.C. 3225a(a)(8).

Talent marketplace means a digital, interconnected system of technologies maintained by a State or State Workforce Agency, as defined at 29 U.S.C. 3225a(a)(8), that

- (a) is publicly available;
- (b) includes an integrated:
 - (i) Learning and Employment Record;
 - (ii) Credential Registry; and
 - (iii) Skill-Based Job Description generator;

(c) utilizes artificial intelligence to enable learners and jobseekers, employers, and education and training providers to transform, transcribe, and transact earned learning assertions, job descriptions, and degree and non-degree credentials into discrete competency statements; and

(d) may be curated into interoperable individual records of achievement and learning and employment recommendations.

Work-based learning is used in accordance with 20 U.S.C. 2302(55), to mean sustained interactions with industry or community professionals in real workplace settings, to the extent practicable, or simulated environments at an educational institution that foster in-depth, firsthand engagement with the tasks required in a given career field, that are aligned to curriculum and instruction.

Regulatory Impact Analysis: This regulatory action is not a significant regulatory action subject to review by the Office of Management and Budget under section 3(f) of Executive Order 12866. This regulatory action is not considered an “Executive Order 14192 regulatory action.” We have also reviewed this regulatory action under Executive Order 13563. We are issuing the priority and definitions only on a reasoned determination that their benefits would justify their costs. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563. We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions. In accordance with these

Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined are necessary for administering the Department’s programs and activities.

Discussion of Costs and Benefits: The priority and definitions would impose no or minimal costs on entities that receive discretionary grant award funds from the Department. Additionally, the benefits of implementing the priority and definitions outweigh any associated costs, to the extent these de minimis costs even exist, because the priority and definitions would result in higher quality grant application submissions. Application submission and participation in competitive grant programs that might use the priority and definitions is voluntary. We believe, based on the Department’s administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of the priority and definitions. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants that earn a grant award, including small entities.

Intergovernmental Review: This action is subject to Executive Order 12372 and the regulations in 34 CFR part 79. This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification: This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

This regulatory action does not impose new reporting requirements or compliance burdens on these entities. Any potential effects are minimal, indirect, or result from voluntary participation in a Federal program. Therefore, the Department concludes

that this rule will not have a significant economic impact on a substantial number of small entities, in accordance with 5 U.S.C. 605(b).

Paperwork Reduction Act: The priority and definitions do not contain information collection requirements or affect currently approved data collections.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or another accessible format.

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

Linda McMahon,

Secretary of Education.

[FR Doc. 2026–07084 Filed 4–10–26; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 705

[EPA–HQ–OPPT–2020–0549; FRL–7902.4–02–OCSPP]

RIN 2070–AL44

Modification to the Start of the Submission Period for Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Reporting and Recordkeeping Under TSCA 8(a)(7)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action to revise the start of the reporting period for the Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Reporting and Recordkeeping Rule (PFAS Reporting Rule). Pursuant to this action, the submission period for the PFAS Reporting Rule will begin on January 31, 2027, or 60 days following the effective date of a forthcoming final

rule on the substantive requirements of the PFAS Reporting Rule, whichever is earlier.

DATES: This final rule is effective on April 13, 2026.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2020-0549, is available online at <https://www.regulations.gov>. Additional instructions for 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 contact: Carolyn Hammack, Chemical Information, Prioritization, and Toxics Release Inventory Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0521; email address: Hammack.Carolyn@epa.gov.

For general information contact: The TSCA Assistance Information Service Hotline, Goodwill Vision Enterprises, 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. Does this action apply to me?

This action may apply to you if you have manufactured (including imported) PFAS for a commercial purpose at any time since January 1, 2011. 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:

- Utilities (NAICS code 22);
- Manufacturing (NAICS code 31 through 33);
- Wholesale trade (NAICS code 42); and
- Waste management and remediation services (NAICS code 562).

This list details the types of entities that EPA is aware could potentially be regulated by this action. Other types of entities not listed could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR 705.10 and 705.12. 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 is the Agency's authority for taking this action?

EPA is promulgating this rule pursuant to its authority in Toxic Substances Control Act (TSCA) section 8(a)(7) (15 U.S.C. 2607(a)(7)). The National Defense Authorization Act for Fiscal Year 2020 (FY 2020 NDAA) (Pub. L. 116-92, section 7351) amended TSCA section 8(a) in December 2019, adding section 8(a)(7), titled "PFAS Data." TSCA section 8(a)(7) requires EPA to promulgate a rule "requiring each person who has manufactured a chemical substance that is a [PFAS] in any year since January 1, 2011" to report information described in TSCA section 8(a)(2)(A) through (G).

Under the Administrative Procedure Act, 5 U.S.C. 553(d)(1), an agency may make a rule effective immediately if it "grants or recognizes an exemption or relieves a restriction." This is such a rule because it relieves restrictions by shifting the commencement of reporting.

C. What action is the Agency taking?

EPA is taking final action on a discrete aspect of the November 13, 2025 proposed rule (90 FR 50923 (FRL-7902.3-01-OCSP)) to amend the start of the data submission period for the PFAS Reporting Rule codified at 40 CFR part 705 to 60 days after the effective date of the forthcoming final rule, as proposed, with an added backstop date of January 31, 2027. The data submission period for the PFAS Reporting Rule will begin 60 days following the effective date of a forthcoming final action on the substantive requirements of the PFAS Reporting Rule (or January 31, 2027—whichever is earlier). EPA expects to ultimately replace 40 CFR 705.20(c) with the effective date of the final revisions rule. EPA is providing January 31, 2027, as an added not-later-than commencement date but expects to finalize the final revisions rule—including the amendment to 40 CFR 705.20(c)—well before that fallback date and expects to later remove this fallback date with the final revisions rule, regardless of whether EPA ultimately decides to finalize all, some, or none of the proposed substantive revisions to the PFAS Reporting Rule.

EPA is not addressing the currently codified duration of the submission period and thus is retaining the current six-month submission period, with an additional six months for reporting by small manufacturers (as defined at 40 CFR 704.3) whose reporting obligations under this rule are exclusively from article import. EPA will address any

changes to the duration of the submission period, as well as other considerations regarding the reporting timeline, in the forthcoming final action.

D. Why is the Agency taking this action?

This action provides EPA with additional time to consider and respond to comments on both the interim final rule (published on May 13, 2025) and the proposed rule (published on November 13, 2025), and then publish a final rule, if appropriate. EPA received 27 unique comments and 639 comments from a mail-in campaign on the May 2025 interim final rule and nearly 600 unique comments and more than 8,500 comments from two mail-in campaigns on the November 2025 proposed rule. EPA needs additional time to address these comments, write and publish a final rule, release updated guidance, and update its reporting tool.

Providing a start date for the submission period relative to the effective date of the forthcoming final action on the November 13, 2025, proposal will ensure EPA does not need to later readjust the start of the submission period. Further, the subsequent final action will define the duration of the submission period, accounting for the nature of any changes to the reporting requirements. Establishing a start for the submission period in this rule, then defining the duration of the submission period in the subsequent final action, provides stakeholders ample notice and sufficient time to plan for compliance, complete due diligence activities, and avoid expending efforts that may not align with the final requirements.

E. Children's Environmental Health

This action is not subject to the EPA's Children's Health Policy (<https://www.epa.gov/children/childrens-health-policy-and-plan>) because EPA does not believe the action has considerations for human health. This action simply adjusts the submission period applicable to existing reporting requirements.

II. Background

The TSCA section 8(a)(7) PFAS Reporting Rule, finalized on October 11, 2023, pursuant to the FY 2020 NDAA, requires any entity that manufactured (including imported) PFAS or PFAS-containing articles at any time since January 1, 2011, to report detailed information to EPA (88 FR 195 (7902-02-OCSP)). The original submission period was scheduled to begin on November 12, 2024, with an extended deadline for small article importers. On

September 5, 2024, EPA promulgated a direct final rule (89 FR 72336 (FRL–7902.1–02–OCSPP)) shifting the reporting deadline due to delays in the development of the electronic reporting application in the Central Data Exchange (CDX), moving the start of the submission period from November 12, 2024, to July 11, 2025. On May 13, 2025 (90 FR 20236 (FRL–7902.2–01–OCSPP)), EPA issued an interim final rule providing a second extension because of continued information technology development delays and the need for additional time to consider public comments the Agency expected to receive on a subsequent proposed modification rule. The second extension established the start of the submission period as April 13, 2026.

On November 13, 2025, EPA proposed modifications to the TSCA section 8(a)(7) PFAS Reporting Rule (90 FR 50923 (FRL–7902.3–01–OCSPP)). The comment period for the proposal closed on December 29, 2025. Commenters pointed out that the existing language in the regulation regarding the data submission period (April 13, 2026 through October 13, 2026) may precede any revision of the regulation, resulting in discrepancies between the codified submission period and any planned revisions to the scope.

This final rule addresses only the date on which the data submission period begins and does not address the end of the submission period (*i.e.*, EPA is not altering the currently codified submission period with this action). Currently, the submission period for the PFAS Reporting Rule begins April 13, 2026, and runs for six months, *i.e.*, through October 13, 2026 (though small manufacturers reporting only as PFAS article importers have until April 13, 2027, to report). EPA is modifying the submission period so that it begins January 31, 2027, or 60 days following the date identified by 40 CFR 705.20(c) (to be added by a subsequent final rule to address the remaining topics proposed in the November 2025 proposal), whichever date is earlier. EPA expects that this subsequent final rule will be issued before January 31, 2027. In the subsequent final rule, EPA expects to add the effective date of the final revisions rule as the date in 40 CFR 705.20(c) and remove the January 31, 2027, backstop from the rule. EPA intends the two commencement dates included in this final rule to be severable. That is, if the 60-day deadline were to be vacated in the event of judicial review, the January 31, 2027, backstop would remain in place; conversely, if the January 31, 2027, backstop were to be vacated in the event

of judicial review, the 60-day deadline would remain in place.

In the subsequent final rule, EPA will also address whether to include any exemptions to the reporting requirements and other potential revisions to the PFAS Data Reporting Rule proposed by the Agency.

III. Response to Public Comments

Due to the scope of this final rule, EPA is specifically summarizing and responding to comments related to the start date of the submission period. EPA is not responding to comments related to the duration of the submission period or other substantive changes to the PFAS Data Reporting Rule, except when those comments focus on when the submission period begins. EPA will address the remaining comments when it takes subsequent final action on the remainder of the proposed rule. With regard to the submission period, determining an appropriate duration is related to other changes the Agency might or might not implement through subsequent final action on the remainder of the proposed rule. Accordingly, EPA is deferring action on a decision regarding the duration of the submission period, and thus the reporting deadline, for the PFAS Data Reporting Rule until subsequent final action concerning the November 2025 proposal.

Several commenters on the May 2025 interim final rule and the November 2025 proposed rule requested that EPA delay the start of and/or extend the duration of the submission period to allow time for rule familiarization; for development, familiarization, and beta testing of the reporting tool; for completion of any new or refined due diligence efforts needed to comply with the final rule; and to ensure that data submissions are of the highest quality to enhance utility. Commenters offered a variety of suggestions for how long the start of the submission period should be delayed, ranging from five months to five years following final action on the substance of the November 2025 proposed rule. Some commenters specifically supported the timeline provided by EPA in the proposed rule that is being finalized with this action, with the caveat that all the exemptions from the proposed rule are also finalized. A minority of commenters expressed opposition to any further delays to the start of the submission period out of concern that delaying data collection may slow progress and postpone important public health protections. EPA has prepared responses to all comments received on this topic in the May 2025 interim final

rule and the November 2025 proposed rule (Ref. 1).

IV. Summary of the Final Rule

EPA has determined it is appropriate to shift the current starting date for the submission period for the PFAS Data Reporting Rule. Accordingly, EPA is finalizing the start date of the submission of the data required by the PFAS Data Reporting Rule to be 60 days following the effective date of a subsequent final action, which will be finalized in the subsequent rule, with a backstop start date of January 31, 2027. This subsequent final action will address the revisions proposed in the November 13, 2025, proposed rule published in the **Federal Register**, as well as provide the duration of the submission period for the PFAS Data Reporting Rule. The submission period for the PFAS Data Reporting Rule will not begin until a successive final action on this rule by the Agency.

V. References

The following is a list of the documents specifically referenced in this document. The docket for this rule includes these documents and other information considered by EPA. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. USEPA. Response to Comments on Timelines for Submission Period Start Date. March 2026.

VI. 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 Regulations 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 under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. This rule provides burden reduction by providing relief against existing compliance deadlines.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activity contained in the existing regulations and has an assigned OMB Control No. 2070–0217 (EPA ICR No. 2682.02). This action does not create any new reporting or recordkeeping obligations and does not otherwise change the burden estimates that were approved.

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.* 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. This action will delay compliance dates of a data reporting rule and alleviate compliance burden on small entities subject to that action. 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 annually 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. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This action does not impose substantial direct compliance costs on federally recognized Indian tribal governments. 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 (62 FR 19885, April 23, 1997) 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 Executive Order 13045.

This action does not concern an environmental health risk or safety risk because it simply adjusts the submission period for existing reporting requirements. 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 subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards under the NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the

Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 705

Environmental Protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Lee Zeldin,
Administrator.

For the reasons set forth in the preamble, 40 CFR part 705 is amended as follows:

PART 705—REPORTING AND RECORDKEEPING REQUIREMENTS FOR CERTAIN PER- AND POLYFLUOROALKYL SUBSTANCES

■ 1. The authority for part 705 continues to read as follows:

Authority: 15 U.S.C. 2607(a)(7).

■ 2. Revise § 705.20 to read as follows:

§ 705.20 When to report.

(a) All information reported to EPA in response to the requirements of this part must be submitted during the applicable submission period. For all reporters submitting information pursuant to §§ 705.15 and 705.18(b) (research and development), the submission period shall begin January 31, 2027, or 60 days following the date provided in paragraph (c) of this section, whichever is earlier, and last for six months.

(b) For any reporter who is reporting under this part exclusively pursuant to § 705.18(a) (article importers) and is also considered a small manufacturer under the definition at 40 CFR 704.3, the submission period shall begin January 31, 2027, or 60 days following the date provided in paragraph (c) of this section, whichever is earlier, and last for twelve months.

(c) EPA intends to publish a document in the **Federal Register** announcing the submission period date and revising or removing this paragraph (c).

[FR Doc. 2026–07062 Filed 4–10–26; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 91, No. 70

Monday, April 13, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-3482; Project Identifier MCAI-2025-01288-R]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Model H160-B helicopters. This proposed AD was prompted by reports of missing retaining rings on the hinge pins installed on the jettisonable window systems. This proposed AD would require inspecting for missing retaining rings on all the hinge pins installed on the jettisonable window systems and, depending on findings, installing missing retaining rings. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by May 28, 2026.

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

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

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

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-3482; or in person at

Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT:

Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue Suite 410, Westbury, NY 11590; phone: (520) 990-9321; email: aryanna.t.sanchez@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include "Docket No. FAA-2026-3482; Project Identifier MCAI-2025-01288-R" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025-0161, dated July 29, 2025 (EASA AD 2025-0161) (also referred to as the MCAI), to correct an unsafe condition on Airbus Helicopters Model H160-B helicopters delivered before May 1, 2025 (date of EASA Form 52, or equivalent statement of conformity). The MCAI states reports were received of missing retaining rings on some of the hinge pins installed on the jettisonable window systems. Subsequent investigation revealed that these missing retaining rings had not been installed in production. This condition, if not addressed, could prevent a window from jettisoning, which could affect the evacuation of occupants during an emergency.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-3482.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025-0161, which specifies procedures for inspecting for missing retaining rings on all the hinge pins installed on the jettisonable window systems and if any retaining ring is found missing,

installing a retaining ring at that position.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0161, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this 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 CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA incorporates EASA AD 2025–0161 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0161 in its entirety through that

incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0161 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0161. Material required by EASA AD 2025–0161 for compliance will be available at regulations.gov under Docket No. FAA–2026–3482 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 12 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect for missing retaining rings	2 work-hours × \$85 per hour = \$170 (108 rings per helicopter).	\$0	\$170	\$2,040

The number of retaining rings found missing as a result of the inspection could vary from helicopter to helicopter. Installing a retaining ring would cost \$50 per ring and would require a minimal amount of time. The FAA has no way of determining the number of helicopters that may require installing missing retaining rings.

Authority for This Rulemaking

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

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

develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2026–3482; Project Identifier MCAI–2025–01288–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 28, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model H160–B helicopters, certificated in any category, as identified in European Union Aviation Safety Agency AD 2025–

0161, dated July 29, 2025 (EASA AD 2025–0161).

(d) Subject

Joint Aircraft System Component (JASC)
Code 2500, Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by reports of missing retaining rings on hinge pins installed on the jettisonable window systems. The FAA is issuing this AD to detect and address missing retaining rings. The unsafe condition, if not addressed, could prevent a window from jettisoning, which could affect the evacuation of occupants during an emergency.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with EASA AD 2025–0161.

(h) Exceptions to EASA AD 2025–0161

(1) Where EASA AD 2025–0161 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0161 defines “affected parts”, this AD requires replacing that definition with “Jettisonable window system elements identified as ‘Components affected’ and listed by part number (P/N) and manufacturer P/N in section ‘Applicability’ of Airbus Helicopters Alert Service Bulletin ASB H160–52–20–0002, Issue 001, dated June 25, 2025, or having a P/N or manufacturer P/N that cannot be identified”.

(3) This AD does not adopt the “Remarks” section of EASA AD 2025–0161.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0161 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this emergency 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 International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

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

(k) Additional Information

For more information about this AD, contact Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue Suite

410, Westbury, NY 11590; phone: (520) 990–9321; email: aryanna.t.sanchez@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0161, dated July 29, 2025.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on April 9, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–07101 Filed 4–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–3481; Project Identifier MCAI–2025–00970–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 supersede Airworthiness Directive (AD) 2025–11–02, which applies to certain Airbus SAS Model A319–151N, –153N, –171N, and –173N airplanes; A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –272N, and –272NX airplanes. AD 2025–11–02 requires revising the existing airplane flight manual (AFM) by providing instructions to address

dual loss of radio management panel (RMP) data synchronization. Since the FAA issued AD 2025–11–02, a software modification for the digital radio and audio integrating management system (DRAIMS) has been developed to address the unsafe condition. This proposed AD would continue to require the actions in AD 2025–11–02 and would require modification of the DRAIMS and add Model A321–271NY airplanes to the applicability. 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 May 28, 2026.

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

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

- **Fax:** 202–493–2251.

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

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

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–3481; 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–2026–3481.

- 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:

Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: Frank.Carreras@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–2026–3481; Project Identifier MCAI–2025–00970–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 Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: Frank.Carreras@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

The FAA issued AD 2025–11–02, Amendment 39–23048 (90 FR 22199, May 27, 2025) (AD 2025–11–02), for Airbus SAS Model A319–151N, –153N, –171N, and –173N airplanes; A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; A321–251N,

–251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –272N, and –272NX airplanes having Airbus modification 162344 or 168460, except those having Airbus modification 165670 installed in production. AD 2025–11–02 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2025–0037, dated February 12, 2025 (EASA AD 2025–0037), to correct an unsafe condition. EASA AD 2025–0037 stated that occurrences of lost synchronization between RMPs were reported, and that these occurrences led to loss of communications means (RMP data synchronization and very high frequency (VHF) communications) on the DRAIMS. Airbus issued instructions for regaining communication and transponder means in certain failure conditions. EASA AD 2025–0037 also stated the AD was considered an interim action and that further AD action might follow.

AD 2025–11–02 requires revising the existing AFM by providing instructions to address dual loss of RMP data synchronization. The FAA issued AD 2025–11–02 to address loss of communications means (RMP data synchronization and VHF communications) on the DRAIMS. This condition, if not corrected, could result in total loss of radio communications, including transponder functionality and standby navigation.

Actions Since AD 2025–11–02 Was Issued

Since the FAA issued AD 2025–11–02, EASA superseded EASA AD 2025–0037 with EASA AD 2025–0118, dated February 12, 2025, which in turn was revised by EASA AD 2025–0118R1, dated July 15, 2025 (EASA AD 2025–0118R1) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A319–151N, –153N, –171N, and –173N airplanes; A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes; A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –271NY, –272N, and –272NX airplanes. The MCAI states that Airbus issued service information to upgrade DRAIMS to the software L4.3 standard.

The preamble to AD 2025–11–02 explains that the FAA considers that AD an interim action and that the FAA might consider further rulemaking once the modification is developed, approved, and available. The DRAIMS software L4.3 standard would address the unsafe condition and would terminate the AFM revision required by AD 2025–11–02. Therefore, the FAA has

determined this modification should be required.

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–2026–3481.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0118R1 specifies procedures for revising the existing AFM by providing instructions to address dual loss of RMP data synchronization; and modifying the airplane by upgrading DRAIMS to the software L4.3 standard, which includes upgrading the audio management and RMP software and modifying the wiring at the 3rd occupant human-machine interface input. EASA AD 2025–0118R1 also prohibits the installation of affected parts.

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 retain all requirements of AD 2025–11–02. This proposed AD would require accomplishing the actions specified in EASA AD 2025–0118R1 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Compliance With AFM Revisions

EASA AD 2025–0118R1 requires operators to “inform all flight crews” of revisions to the AFM, and thereafter to “operate the aeroplane accordingly.” However, this proposed AD would not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other

flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. Section 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this proposed AD to operate the airplane according to the revised AFM would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD

process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0118R1 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0118R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0118R1 does not mean that operators need comply only with

that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2025–0118R1. Material required by EASA AD 2025–0118R1 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–3481 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 544 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2025–11–02.	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$46,240
New proposed action	Up to 7 work-hours × \$85 per hour = \$595	774	1,369	744,736

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:
- a. Removing Airworthiness Directive (AD) 2025–11–02, Amendment 39–23048 (90 FR 22199, May 27, 2025); and
 - b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2026–3481; Project Identifier MCAI–2025–00970–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 28, 2026.

(b) Affected ADs

This AD replaces AD 2025–11–02, Amendment 39–23048 (90 FR 22199, May 27, 2025) (AD 2025–11–02).

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model A319–151N, –153N, –171N, and –173N airplanes.

(2) Model A320–251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(3) Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –271NY, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 23, Communications.

(e) Unsafe Condition

This AD was prompted by reports of lost synchronization between radio management panels (RMPs). The FAA is issuing this AD to address loss of communication means (RMP data synchronization and very high frequency communications) on the digital radio and audio integrating management system (DRAIMS). This condition, if not corrected, could result in total loss of radio communications, including transponder functionality and standby navigation.

(f) Compliance

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

(g) Retained Revision of the Airplane Flight Manual (AFM), With a New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2025–11–02, with a new terminating action. For Airbus SAS Model A319–151N, –153N, –171N, and –173N airplanes; Model A320–251N, –252N, –253N,

–271N, –272N, and –273N airplanes; Model A321–251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –272N, and –272NX airplanes having Airbus modification 162344 or 168460, except for airplanes having Airbus modification 165670 installed in production: Within 7 days after June 11, 2025 (the effective date of AD 2025–11–02), revise the Emergency Procedures section of the existing AFM to include the information in figure 1 or figure 2 to paragraph (g) of this AD, as applicable. This may be done by inserting a copy of figure 1

or figure 2 to paragraph (g) of this AD, as applicable, into the existing AFM. Using a different document with information identical to that contained in figure 1 or figure 2 to paragraph (g) of this AD, as applicable, is acceptable for compliance with the requirements of this paragraph. Accomplishing the modification required by paragraph (j) of this AD terminates the requirements of this paragraph.

Figure 1 to Paragraph (g)—AFM Procedure for Airplanes With Airbus Modification 162344 and Modification 162367**Dual Loss of RMP Data Synchronization**

Check RMP 1 and RMP 2 on.
Reset both AMU sides.

Note: During AMU reset, all audios in the cockpit are inoperative.

■ If AMU reset successful:

Check communication, transponder, TCAS and radio navigation settings.

■ If AMU reset not successful:

Switch off RMP 1 and RMP 2.

Note: When RMP 1 and RMP 2 are switched off:

- The aural alerts are not available on loudspeakers.
- The communication is only available on RMP 3.

Check communication, transponder, TCAS and radio navigation settings.

Figure 2 to Paragraph (g)—AFM Procedure for Airplanes With Airbus Modification 162344 and Not Modification 162367

Dual Loss of RMP Data Synchronization

Check RMP 1 and RMP 2 on.
Reset both AMU sides.

Note: During AMU reset, all audios in the cockpit are inoperative.

■ **If AMU reset successful:**

Check communication, transponder, TCAS and radio navigation settings.

■ **If AMU reset not successful:**

Switch off RMP 1 and RMP 2.

Note: When RMP 1 and RMP 2 are switched off:

- The radio communication, interphone and aural alerts are only available via a boomset connected to ACP 3.
- The Squawk code automatically sets to 7600.
- The TCAS mode automatically sets to TA/RA.

(h) Retained Credit for Previous Actions, With No Change

This paragraph restates the requirements of paragraph (h) of AD 2025–11–02, with no change.

(1) This paragraph provides credit for the AFM revision required by paragraph (g) of this AD, if the revision was performed before June 11, 2025 (the effective date of AD 2025–11–02) using Airbus A318/A319/A320/A321 Operations Engineering Bulletin (OEB) 63, issue 1.0, dated February 7, 2025.

(2) This paragraph provides credit for the AFM revision required by paragraph (g) of this AD, if the revision was performed before June 11, 2025 (the effective date of this AD 2025–11–02) using Airbus A318/A319/A320/A321 Airplane Flight Manual Temporary Revision TR816, Issue 1, dated February 19, 2025; or Airbus A318/A319/A320/A321 Airplane Flight Manual Temporary Revision TR817, Issue 1, dated February 19, 2025, as applicable.

(i) New AFM Revision for Certain Airplanes

For Airbus SAS Model A321–271NY airplanes identified as Group 1 airplanes in European Union Aviation Safety Agency (EASA) AD 2025–0118R1, dated July 15, 2025 (EASA AD 2025–0118R1): Within 7 days after the effective date of this AD, revise the Emergency Procedures section of the existing AFM to include the information in figure 1 or figure 2 to paragraph (g) of this AD, as applicable. This may be done by inserting a copy of figure 1 or figure 2 to paragraph (g) of this AD, as applicable, into the existing AFM. Using a different document with information identical to that contained in figure 1 or figure 2 to paragraph (g) of this AD, as applicable, is acceptable for compliance with the requirements of this paragraph. Accomplishing the modification required by paragraph (j) of this AD

terminates the requirements of this paragraph.

(j) New Requirements

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0118R1. Accomplishing the modification required by this paragraph terminates the requirements of paragraphs (g) and (i) of this AD, as applicable.

(k) Exceptions to EASA AD 2025–0118R1

(1) Where EASA AD 2025–0118R1 refers to June 4, 2025 (the effective date of EASA AD 2025–0118, dated May 21, 2025), this AD requires using the effective date of this AD.

(2) This AD does not adopt paragraphs (1) through (3) and paragraph (5) of EASA AD 2025–0118R1.

(3) This AD does not adopt the “Remarks” section of EASA AD 2025–0118R1.

(l) 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 (m)(1) of this AD and email to: AMOC@faa.gov.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2025–11–02 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

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

(m) Additional Information

(1) For more information about this AD, contact Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: Frank.Carreras@faa.gov.

(2) For Airbus material identified in this AD that is not incorporated by reference, contact Airbus SAS, Airworthiness Office—ELAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email

account.airworth-eas@airbus.com; website airbus.com.

(n) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0118R1, dated July 15, 2025.

(ii) [Reserved]

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

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

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

Issued on April 8, 2026.

Brian Knaup,

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

[FR Doc. 2026–07052 Filed 4–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 49

[REG–114499–25]

RIN 1545–BR98

Excise Tax on Remittance Transfers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that would provide rules and definitions related to the excise tax imposed on certain remittance transfers that occur after December 31, 2025. The proposed regulations would affect certain remittance transfer providers and certain individuals sending remittance transfers.

DATES: Electronic or written comments and requests for a public hearing must be received by June 12, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments

electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–114499–25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted to the IRS’s public docket. Send paper submissions to: CC:PA:01:PR (REG–114499–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Julia Barlow of the Office of the Associate Chief Counsel (Energy, Credits, and Excise Tax), (202) 317–6855 (not a toll-free number); concerning submission of comments or request for a public hearing, Publications and Regulations Section at (202) 317–6901 (not a toll-free number) or by email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This notice of proposed rulemaking contains proposed amendments that would revise the Excise Tax Procedural Regulations (26 CFR part 40) and add new amendments to the Facilities and Services Excise Tax Regulations (26 CFR part 49) under section 4475 of the Internal Revenue Code (Code), as enacted by Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBA). These proposed amendments are issued under the authority granted by section 4475(b) and (c) of the Code, which authorize the Secretary of the Treasury or the Secretary’s delegate (Secretary) to provide the time and manner of collection of the tax imposed by section 4475(a) (remittance transfer tax) and to determine the instruments that constitute “similar physical instrument[s]” for purposes of the tax.

Additionally, these proposed regulations are issued pursuant to section 7805(a) of the Code, which authorizes the Secretary to “prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.”

Background

Section 4475 was added to chapter 36 of the Code by section 70604 of the OBBA. The remittance transfer tax imposed by section 4475(a) is a 1 percent tax on the amount of certain remittance transfers that occur after December 31, 2025. Section 4475(b)(1) and (2) provide that the remittance transfer tax is paid by the sender, and that the remittance transfer provider collects and remits the remittance transfer tax quarterly to the Secretary at the time and in the manner provided by the Secretary. Section 4475(b)(3) provides that, if the remittance transfer tax is not collected at the time the remittance transfer is made, the tax must be paid by the remittance transfer provider.

Section 4475(c) provides that the remittance transfer tax applies only to remittance transfers for which the sender provides cash, a money order, a cashier’s check, or any other similar physical instrument (as determined by the Secretary) to the remittance transfer provider.

Section 4475(d) provides that the remittance transfer tax does not apply to any remittance transfer for which the funds being transferred are (1) withdrawn from an account held in or by a financial institution described in subparagraphs (A) through (H) of section 5312(a)(2) of title 31 of the U.S. Code (title 31), and subject to the requirements under subchapter II of chapter 53 of title 31, or (2) funded with a debit card or a credit card issued in the United States.

Section 4475(e) defines several terms fundamental to the remittance transfer tax by cross-reference to the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693–1693r).

Section 4475(f) provides that, for purposes of section 7701(l) of the Code, with respect to any multiple-party arrangements involving the sender, a remittance transfer is treated as a financing transaction.

Because section 4475 was added to chapter 36 of the Code, and because quarterly remittances of the remittance transfer tax are explicitly required by section 4475(b)(2), the remittance transfer tax will be reported on Form 720, *Quarterly Federal Excise Tax Return*, by the remittance transfer provider as the collector. See 26 CFR 40.0–1(a) and 40.6011(a)–1(a)(1). Section 6302 of the Code authorizes the Secretary to establish the mode and time for collecting certain taxes, including the taxes imposed by chapter 36. Section 40.6302(c)–1(a)(1), which constitutes an exercise of authority

under section 6302(a), requires each person that is required to file Form 720 to make deposits of tax. Accordingly, collectors of the remittance transfer tax are also required to make semimonthly deposits of tax pursuant to § 40.6302(c)–1(a)(1). Those deposits are payments toward an amount that is not fully determined until filing, and are distinguishable from the quarterly remittances of tax required by section 4475(b)(2). Pursuant to § 40.0–1(c), a semimonthly period is the first 15 days of a calendar month or the portion of a calendar month following the 15th day of the month.

In Notice 2025–55, 2025–43 I.R.B. 625 (October 20, 2025), the Treasury Department and the IRS provided relief from failure to deposit penalties under section 6656 of the Code in connection with the remittance transfer tax for the first three calendar quarters of 2026. Notice 2025–55 also provides that a remittance transfer provider's ability to use the deposit safe harbor under § 40.6302(c)–1(b)(2) will not be affected by a failure during the first three calendar quarters of 2026 to make deposits of the remittance transfer tax as required under part 40, provided the remittance transfer provider satisfies the reasonable cause exception under section 6656(a).

Explanation of Provisions

I. Proposed Amendments to 26 CFR Part 40

Section 40.0–1(a) provides generally that the regulations in part 40 set forth administrative provisions relating to the excise taxes imposed by chapters 31 through 34, 36, 38, 39, 49, and 50A of the Code. Proposed § 40.0–1(a) would amend that paragraph by referencing the remittance transfer tax imposed by section 4475 as a tax imposed under chapter 36. Proposed § 40.0–1(e) would amend the applicability dates to reflect the proposed change to § 40.0–1(a).

II. Proposed Amendments to 26 CFR Part 49

A. Definitions

Section 4475(e) defines several terms by cross-reference to definitions in the EFTA. Specifically, section 4475(e)(1) provides that the terms “remittance transfer,” “remittance transfer provider,” and “sender” have the meanings provided in section 919(g) of the EFTA. The cross-referenced definitions incorporate other terms defined in the EFTA: specifically, “State,” “consumer,” and “designated recipient.” Section 4475(e)(2) defines the term “credit card” by reference to section 920(c)(3) of the EFTA, which in

turn references section 1602 of title 15 of the U.S. Code. Section 4475(e)(3) defines the term “debit card” by reference to section 920(c)(2) of the EFTA, without regard to section 920(c)(2)(B) of the EFTA (which provides that the term “debit card” includes a general-use prepaid card, as that term is defined in section 915(a)(2)(A) of the EFTA). To effectuate section 4475(e) and reduce compliance burdens on remittance transfer providers, the proposed regulations would generally draw on the EFTA definitions of the terms cross-referenced in 4475(e) in a manner that is consistent with the interpretation of such terms in regulations issued by the Consumer Financial Protection Bureau, *see* 12 CFR part 1005 (Regulation E), to the extent such interpretations are consistent with the statutory provisions governing the remittance transfer tax and principles of sound tax administration.

Proposed § 49.4475–1(b)(1) would define the term “cash” as United States dollars or any foreign currency in physical form that is issued by a government or a central bank.

Proposed § 49.4475–1(b)(2) would define the term “consumer” as a natural person, which is consistent with the EFTA. *See* section 903(6) of the EFTA and 12 CFR 1005.2(e). While the EFTA definition of the term “consumer” is not explicitly cross-referenced in section 4475(e), it is implicated by the cross-referenced definition of the term “sender” in section 4475(e)(1).

Proposed § 49.4475–1(b)(3) would define the term “designated recipient” as any person specified by the sender as the authorized recipient of a remittance transfer to be received at a location in a foreign country. *See* section 919(g)(1) of the EFTA; 12 CFR 1005.30(c). A remittance transfer is received at a location in a foreign country if funds are to be received at a location physically outside of any State. *See* 12 CFR part 1005, *supp.* I (comment to 30(c), “designated recipient”). This proposed definition would ensure alignment with the EFTA and would clarify the determination of the location of a recipient and, thus, the determination of the taxability of the transaction.

Consistent with section 4475(e)(1), proposed § 49.4475–1(b)(4)(i) would define the term “remittance transfer” as the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider. The term applies regardless of whether the sender holds an account with the remittance transfer provider. *See* section 919(g)(2)(A) of the EFTA; 12 CFR 1005.30(e).

Proposed § 49.4475–1(b)(4)(ii)(A) and (B) would incorporate two exclusions found in the EFTA and Regulation E: one for small-value transactions, and one for transfers that fund the purchase of certain securities and commodities. *See* section 919(g)(2)(B) of the EFTA; 12 CFR 1005.30(e)(2). These exclusions would serve to align the scope of remittance transfers subject to the EFTA with those potentially subject to the remittance transfer tax.

Proposed § 49.4475–1(b)(5)(i) would define the term “remittance transfer provider,” consistent with section 4475(e)(1), the EFTA, and Regulation E, as any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such person. *See* section 919(g)(3) of the EFTA; 12 CFR 1005.30(f). A person is not a remittance transfer provider merely because it performs activities as an agent on behalf of a remittance transfer provider. *See* 12 CFR part 1005, *supp.* I (comment to 30(f), “remittance transfer provider”). For example, a grocery store would not be a remittance transfer provider merely because it acts as an agent of a remittance transfer provider to offer consumers remittance transfer services.

The Treasury Department and the IRS are aware that Regulation E provides a safe harbor in 12 CFR 1005.30(f)(2) under which a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person provided 500 or fewer remittance transfers in the previous calendar year and provided 500 or fewer remittance transfers in the current calendar year. Proposed § 49.4475–1(c)(5)(ii) would depart from Regulation E in this regard by providing that this normal course of business safe harbor does not apply to section 4475(a). This departure is necessary because otherwise the rule would have the potential to create inconsistent tax results for senders in otherwise identical remittance transfer transactions.

Consistent with section 4475(e)(1), the EFTA, and Regulation E, proposed § 49.4475–1(b)(6) would define the term “sender” as a consumer in a State who primarily for personal, family, or household purposes requests a remittance transfer provider to send a remittance transfer to a designated recipient. *See* section 919(g)(4) of the EFTA; 12 CFR 1005.30(g). The Treasury Department and the IRS understand that many remittance transfer providers may already structure their businesses to distinguish consumer and business services for purposes of compliance

with the EFTA and possibly other applicable regulatory regimes. For consistency and to minimize costs to remittance transfer providers, a remittance transfer provider's classification of a remittance transfer's purpose (for personal, family, household, or other purpose) should be the same under the EFTA and the remittance transfer tax.

Proposed § 49.4475–1(b)(7) would define the term “State” as any State or territory of the United States, or the District of Columbia. While the EFTA definition of the term “State” is not explicitly cross-referenced in section 4475(e), it is implicated by the cross-referenced definition of the term “remittance transfer” in section 4475(e)(1). For this reason, the proposed regulations would reflect the EFTA definition of “State,” found in section 903(11) of the EFTA, rather than the definition provided in section 7701(a)(10). Although otherwise identical to the definition of the term “State” provided in 12 CFR 1005.2(l), proposed § 49.4475–1(b)(7) would omit from that definition the words “possession” and “Commonwealth of Puerto Rico.” These terms would be redundant in the context of Federal law in which the term “possession” is synonymous with “territory,”¹ and, pursuant to section 7701(d), the Commonwealth of Puerto Rico is a territory of the United States. The proposed definition would also omit the reference to “political subdivision[s]” in Regulation E because that concept is irrelevant to the remittance transfer tax.

B. Imposition of the Tax

1. Attachment of the Tax

Proposed § 49.4475–1(c)(1) would provide that the remittance transfer tax attaches at the time a remittance transfer is made, *see* section 4475(b)(3), clarifying that this occurs at the earlier of the time the remittance transfer is initiated by the remittance transfer provider or the time the sender pays the remittance transfer provider (or its agent). The proposed rule would include an example illustrating that the fact that funds may not be disbursed to the designated recipient until a later date does not affect the time a remittance transfer is made for purposes of determining the calendar quarter in which the tax attaches and the transfer is reportable.

Consistent with this proposed rule, proposed § 49.4475–1(c)(2) would clarify that the remittance transfer tax

attaches to remittance transfers regardless of whether the transferred amount is disbursed to the designated recipient. The proposed rule would also clarify that, in cases in which a remittance transfer is canceled or expires and the remittance transfer provider refunds the amount of the remittance transfer to the sender, the sender may file a claim for refund of the remittance transfer tax with the IRS. Neither section 4475 nor any other section of the Code entitles the collector (unlike the sender) to refunds of the remittance transfer tax.

2. Taxable Remittance Transfers

Section 4475(c) and (d) provide the scope of the remittance transfers to which the remittance transfer tax applies. Section 4475(c) provides that the remittance transfer tax applies only to remittance transfers for which the sender provides cash, a money order, a cashier's check, or any other similar physical instrument (as determined by the Secretary) to the remittance transfer provider. Pursuant to the grant of authority provided in section 4475(c), proposed § 49.4475–1(d)(1) would add traveler's checks to the list of taxable instruments. As a method of payment, traveler's checks are virtually indistinguishable from money orders and cashier's checks and are, therefore, a “similar physical instrument.”

Section 4475(d) provides that the remittance transfer tax does not apply to any remittance transfer for which the funds being transferred are (1) withdrawn from an account held in or by a financial institution described in section 5312(a)(2)(A) through (H) of title 31 and subject to the requirements under chapter 53, subchapter II of title 31, or (2) funded with a debit card or credit card issued in the United States. Proposed § 49.4475–1(d)(1) would provide that settlement of a payment obligation under a money order, cashier's check, or traveler's check by the issuing entity to the remittance transfer provider does not constitute a “withdrawal” for purposes of section 4475(d)(1). Such funds satisfy the issuing entity's payment obligation under the instrument, rather than being withdrawn from an account of the sender with a financial institution described above. Proposed § 49.4475–1(d)(1) would not separately address the applicability of section 4475(d)(1) to personal or business checks made out to a remittance transfer provider or general-use prepaid cards, because a sender's provision of such instruments would not trigger the remittance transfer tax under proposed § 49.4475–1(d)(1) in the first instance.

Similarly, proposed § 49.4475–1(d)(1) would not separately address section 4475(d)(2), which renders remittance transfers funded with a debit card or a credit card issued in the United States nontaxable, because a sender's use of such a card to pay for a remittance transfer would not trigger the tax under proposed § 49.4475–1(d)(1) in the first instance. As a result, any remittance transfer funded with a debit card or credit card would be nontaxable, regardless of the country in which such debit card or credit card was issued.

Proposed § 49.4475–1(d)(2) would provide that in a case in which a remittance transfer provider (or its agent) cashes a personal or business check payable to the sender and the funds are used to fund a remittance transfer, such transaction will be treated for purposes of proposed § 49.4475–1(d)(1) as a remittance transfer for which the sender provides cash to the remittance transfer provider. The proposed regulations would treat this scenario as involving two separate transactions: a check-cashing transaction followed by a remittance transfer for which the sender provided cash to the remittance transfer provider under proposed § 49.4475–1(d)(1), regardless of the steps involved and regardless of whether the sender ever has actual possession of any resulting cash. Any remittance transfer funded as described in proposed § 49.4475–1(d)(2) would, therefore, be subject to taxation under section 4475(a) as a remittance transfer for which the sender provided cash to a remittance transfer provider.

Proposed § 49.4475–1(d)(3) would define the amount subject to the remittance transfer tax, with respect to any taxable remittance transfer, as the amount that will ultimately be transferred to the designated recipient; amounts that will not be transferred to the designated recipient are not included. Thus, promotional “bonuses” that are included in the amount ultimately transferred to the designated recipient but not directly paid for by the sender would be part of the remittance transfer amount under the proposed rule. Service fees, State taxes, and charges for other goods and services that are not ultimately transferred to the designated recipient would not be part of the remittance transfer amount under the proposed rule. The remittance transfer provider's characterization of an amount would not be determinative under the proposed rule if, in fact, such amount will ultimately be transferred to the designated recipient. This proposed rule is consistent with the ordinary meaning of the term “remittance transfer,” the reference, in section

¹ U.S. Department of the Interior, Definitions of Insular Area Political Organizations, at <https://www.doi.gov/oia/islands/politicaltypes#>.

4475(d), to “the funds being transferred,” and the EFTA disclosure requirements under 12 CFR 1005.31(b)(1)(i).

Proposed § 49.4475–1(d)(4) would provide that transactions engaged in for a principal purpose of avoiding the remittance transfer tax may be disregarded or recharacterized to reflect the substance of those transactions. The determination of whether a sender and remittance transfer provider or third party have engaged in a transaction or series of transactions with a principal purpose of avoiding the tax would be based on all facts and circumstances, including facts and circumstances relevant to a remittance transfer provider's or third party's pattern of conduct. The proposed rule would also provide two examples of the application of this rule in which a remittance transfer provider or their agent issues general-use prepaid cards to customers paying with cash for purposes of avoiding the remittance transfer tax.

Proposed § 49.4475–1(e) would provide examples illustrating the application of these proposed definitions and rules.

Proposed Applicability Date

These regulations are proposed to apply to remittance transfers made in calendar quarters beginning on or after the date these regulations are published as final regulations in the **Federal Register**. Collectors and taxpayers may rely on these proposed regulations for remittance transfers made after December 31, 2025, and before the first calendar quarter beginning on or after the date these regulations are published as final regulations in the **Federal Register**, provided that collectors and taxpayers follow these proposed regulations in their entirety and in a consistent manner.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

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

The proposed regulations have been designated by the Office of Management

and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. OIRA has determined that the proposed rulemaking is significant and subject to review under section 3(f) of Executive Order 12866 and section 1(c) of the Memorandum of Agreement. Accordingly, the proposed regulations have been reviewed by OMB. This rule is expected to be an Executive Order 14192 regulatory action.

A. Need for Regulation

Section 70604 of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), added a new section 4475 to the Internal Revenue Code (Code). Section 4475 imposes an excise tax equal to one percent of the amount of any taxable remittance transfer. The proposed regulations are needed to clarify the scope and application of the tax. Following statutory requirements, the proposed regulations clarify that the tax would be triggered only when the sender funds the transfer with specified funding instruments. The proposed regulations also provide that the tax base would be the amount transferred to the designated recipient (rather than, say, the amount spent by the sender), and that the tax would attach at the time when a remittance transfer is made.

B. The Statute and the Proposed Regulations

Section 4475 of the Code imposes an excise tax equal to 1 percent of the amount of any taxable remittance transfer initiated by a domestic sender and received by a designated recipient located outside of the United States. Existing excise tax procedural regulations (ETPR) apply to the new remittance transfer tax by virtue of section 4475 being placed in chapter 36 of the Code. The ETPR provide administrative rules for remittance transfer providers regarding collection of the tax from senders, reporting requirements, and the payment of tax deposits to the Internal Revenue Service (IRS). The ETPR are operative even in the absence of the proposed regulations. The proposed regulations clarify that the ETPR apply to the remittance transfer tax but do not make any substantive procedural amendments regarding the remittance transfer tax.

Section 4475(c) specifies that the tax applies only to a remittance transfer that

the sender funds using cash, a money order, a cashier's check, or other similar physical instrument (as provided by the Secretary). Section 4475(d) further specifies that the tax does not apply to funds being transferred that are withdrawn from an account held in or by certain financial institutions or that are funded using a debit card or a credit card issued in the United States. Using the subsection (c) authority, the proposed regulations add traveler's checks to the list of physical instruments that would give rise to a tax liability.² Subject to an anti-avoidance rule in the proposed regulations, a sender's provision of other instruments, such as personal or business checks, credit and debit cards (regardless of country of issuance), and general-use prepaid cards, would not trigger the remittance transfer tax. Although checks are not included on the list of taxable funding instruments, the proposed regulations clarify that if a remittance transfer provider or its agent cashes a check payable to the sender and some, or all, of the cash is used to fund a remittance transfer, then the remittance transfer is treated as being funded with cash. In this case, it does not matter whether the sender is charged a separate check-cashing fee.

The proposed regulations specify that the remittance transfer tax attaches at the time when a remittance transfer is made, which occurs at the earlier of the time the remittance transfer is initiated by the remittance transfer provider or the time the sender pays the remittance transfer provider or its agent. If the transfer is canceled or expires, and the amount of the transfer is returned to the sender, the sender may be eligible to file a claim for refund with the IRS.³

Section 4475(e) provides definitions of “remittance transfer,” “remittance transfer provider,” “sender,” “credit card,” and “debit card” by cross-referencing to the Electronic Fund Transfer Act (EFTA).⁴ The EFTA definitions have been further refined in regulations issued by the Consumer Financial Protection Bureau (CFPB), which are identified as “Regulation E.”⁵

² The proposed regulations clarify that the settlement of a money order, cashier's check, or traveler's check does not constitute a withdrawal from an account at a financial institution for purposes of section 4475(d)(1). Thus, the source of any funds used to purchase such instruments is immaterial.

³ Section 6402 of the Code provides authority for the Secretary to credit the amount of any tax overpayment in respect of an Internal Revenue tax and, subject to certain rules, may refund any balance due, including any allowed interest, to the person who made an overpayment.

⁴ The EFTA is codified as 15 U.S.C. 1693–1693r.

⁵ Regulation E (Electronic Fund Transfers) is found at 12 CFR part 1005.

The proposed regulations generally adopt the Regulation E definitions, which are familiar to remittance transfer providers, but modify those rules when necessary, in view of the different purpose of implementing the remittance transfer tax.

The proposed regulations adopt the definition of “remittance transfer” from Regulation E. This definition refers to an “electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider.” It does not specify the taxable amount of a remittance transfer. Therefore, the proposed regulations provide that the remittance transfer tax would be imposed on the total amount that will be transferred to the designated recipient, including any amount provided by the sender, the remittance transfer provider, or any other person (including promotional bonuses or discounts). This tax base excludes fees paid to the remittance transfer provider, any State taxes imposed on the transfer, charges for other goods or services that are not transferred, and the remittance transfer tax itself. The statutory and Regulation E definitions of remittance transfers exclude “small-value transactions.”⁶ These transfers are currently determined under Regulation E as those valued at \$15 or less. The proposed regulations adopt an additional exclusion specified under Regulation E for any transfer whose primary purpose is the purchase or sale through a regulated broker-dealer or futures commission merchant of certain regulated securities or commodities. Adoption of these exclusions by the proposed regulations is intended to align the scope of a remittance transfer under the remittance transfer tax with that of a remittance transfer under EFTA.

The proposed regulations refer to and generally adopt the Regulation E definitions of “sender,” “designated recipient,” and “remittance transfer provider.” Consistent with Regulation E, an entity acting as an agent on behalf of remittance transfer providers would not itself be considered a remittance transfer provider.⁷ However, the proposed regulations do not adopt a Regulation E safe harbor under which a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person provided 500 or fewer remittance

transfers in the previous and current calendar years.⁸

C. Baseline

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

D. Affected Entities and Taxpayers

By providing additional specificity to needed definitions and to required rules governing the scope, timing and amount of tax, the proposed regulations affect senders of remittances, remittance transfer providers, and agents of remittance transfer providers.

Banks, credit unions, and money services businesses (MSBs) make up the universe of remittance transfer providers. Since remittance transfers facilitated by financial institutions are primarily funded by non-cash instruments, the Treasury Department and the IRS expect that banks and credit unions will not be materially affected by the remittance tax and proposed regulations. According to annual data from NMLS Money Services Businesses Report, there are approximately 600 MSBs that are licensed as money transmitters.⁹ Among them, more than 200 MSBs, through approximately 500,000 authorized agents, provide remittance transfers at retail locations and likely accept cash and cash-like payment instruments. The remaining 400 MSBs do not work with agents and likely provide remittance transfers solely through online platforms and accept non-physical payment instruments. In addition, the Treasury Department and the IRS estimate that approximately 3.6 million households per year have sent remittance transfers through nonbank money transfer services in recent years, among which 30 percent to 36 percent, or 1.1 million to 1.3 million households, likely used cash or cash-like instruments.¹⁰

⁸ See 12 CFR 1005.30(f)(2)(i).

⁹ The Nationwide Multistate Licensing System (NMLS) regulates and collects data on MSBs, some of which provide remittance transfer services, *i.e.*, money transmitters. The NMLS annual MSB reports are available at <https://mortgage.nationwide licensingsystem.org/knowledge/Products/nmls/aboutNMLS/SitePages/NMLSReports.aspx>.

¹⁰ The 2020 Census enumerated 331.4 million people and 126.9 million households in the U.S. (see <https://www2.census.gov/library/publications/decennial/2020/census-briefs/c2020br-10.pdf>). The FDIC National Survey of Unbanked and Underbanked Households in 2021 and 2023 finds that 2.8 percent of all surveyed households sent or received international remittances through nonbank money transfer services (see 2021 FDIC National Survey of Unbanked and Underbanked Households, at <https://www.fdic.gov/analysis/household-survey/>

E. Economic Effects of the Proposed Regulations

The Treasury Department and the IRS analyzed the economic effects of the proposed regulations in adopting Regulation E definitions with some modifications, clarifying that the tax base of the remittance tax excludes service fees imposed by remittance transfer providers and includes promotional values being transferred, adding traveler's checks as a cash-like instrument, and clarifying the treatment of remittance transfers paid for with funds from checks cashed by a remittance transfer provider or its agent.

The proposed regulations provide clarity and certainty to the implementation of the statute and promote a consistent application of the tax, while minimizing the associated compliance burdens for remittance transfer providers and agents. The Treasury Department and the IRS do not have readily available parameters and models to quantify the impact the proposed regulations may have on the type of funding instruments used to pay for remittance transfers or on the level of remittance transfers. The following sections describe in further detail the potential economic impacts of specific elements of the proposed regulations.

1. Economic Background of Remittance Transfers

Annual data from NMLS Money Services Businesses Report shows that the total money transmissions to domestic and foreign destinations via MSBs grew from \$1.3 trillion in 2019 to \$4 trillion in 2024. Money transmitted to foreign destinations (remittance transfers) accounted for 9 to 25 percent of the total money transmissions, equaling \$236 billion in 2019, growing to almost \$1 trillion in 2021 and 2022, but decreasing to \$365 billion in 2024. Over 2019–2024, annual remittance transfers to foreign destinations through MSBs averaged \$520 billion.¹¹ The

2021report.pdf, and 2023 FDIC National Survey of Unbanked and Underbanked Households, at <https://www.fdic.gov/household-survey/2023-fdic-national-survey-unbanked-and-underbanked-households-report>). Based on these statistics, the Treasury Department and the IRS estimate that approximately 3.6 million households will send remittances through MSBs annually. Also see subsequent analysis in “Economic Background of Remittance Transfers” for how the Treasury Department and the IRS derived that 30 percent of remittance transfers are paid for by cash.

¹¹ Money transfers to foreign destinations were highly volatile during this time period. The 2021 and 2022 annual totals are about three times as large as those in other years, likely due to a variety of factors, such as strong economic recovery post-COVID in the United States, sluggish economic recovery overseas (higher demand for remittances at

Continued

⁶ See 15 U.S.C. 16930–1(g)(2)(B) and 12 CFR 1005.30(e)(2)(i).

⁷ See the official interpretation of the section 1005.2 definition of remittance transfer provider at 12 CFR supplement I 30(f)(1).

average individual money transfer size ranged from \$290 to \$740 over the same time period.

ranged from \$290 to \$740 over the same time period.

TABLE 1—MONEY TRANSFERS VIA MSBS

	Total money transfer, domestic and foreign (millions of USD)	Total remittance transfer (foreign only) (millions of USD)	Average transfer, domestic and foreign (USD)
2019	1,310,111	235,820	290
2020	1,821,770	273,265	303
2021	3,768,884	942,221	740
2022	3,715,101	965,926	566
2023	3,770,451	339,341	370
2024	4,058,716	365,284	365
Average	3,074,172	520,310	439

Remittance transfers are subject to transaction fees charged by the remittance transfer providers, which can vary by provider, the size of the transfer, payment modes, the corridor of transaction, speed of delivery, as well as other factors. For \$200 and \$500 remittance transfers sent from the United States in 2025, the World Bank estimates an average transaction fee of 5.56 percent and 3.81 percent, respectively.¹² For taxable remittance transfers within that range of amounts, a 1 percent tax rate amounts to an average 18 to 26 percent increase in the total remittance cost (exclusive of the amount remitted) that senders will face.

MSBs offer money transfers via two main channels: at retail locations and through digital platforms. Based on industry reporting and consumer surveys, the Treasury Department and the IRS estimate that the share of remittances transferred through digital platforms is likely 40 to 50 percent. Remittance transfers through digital platforms are funded by non-cash instruments such as debit cards and ACH transfers. Among remittance transfers conducted through retail locations (the remaining 50 to 60 percent), customers can fund the transfers using cash, credit and debit cards, and other payment methods accepted by the MSB.

There is limited public information on the share of various payment methods used by senders for remittance transfers. The Treasury Department and the IRS therefore estimate the share of

cash transfers based on three factors that are relevant for choosing cash payment at retail remittance transfer providers—the identity of the senders, the share of the unbanked population among senders, and broadband and smart phone penetration rates. The Treasury Department and the IRS expect that the population using MSB retail locations to make remittance transfers consists of unbanked senders, plus banked senders who lack internet or smartphone access.

A U.S. Census Bureau working paper estimates that the vast majority of remittance transfers are sent by immigrants, *i.e.*, foreign-born persons living in the United States.¹³ In addition, 7 percent of immigrants live in an unbanked household, according to a recent study.¹⁴ The Treasury Department and the IRS therefore estimate that about 7 percent of immigrants would send remittance transfers using cash because they have no access to alternative payment methods, such as debit cards, through accounts with financial institutions.

Senders without access to smartphones or internet, even if banked, do not have access to digital payment platforms, and these senders are assumed to make up the rest of the customers who use MSB retail locations. A 2023 Pew Research Center survey finds that 95 percent of adults living in the United States have access to the internet and 90 percent have a smartphone.¹⁵ The Treasury Department and the IRS therefore estimate that approximately 4.65 percent of the total

immigrant population live in banked households but do not have internet access or smartphones (5 percent without internet access or smartphones × 93 percent in banked households). This population may find money transfers through a bank uneconomical, but do not have access to less costly, digital remittance transfer platforms. Therefore, they would likely send remittances through an MSB retail location using non-physical payments, such as a debit card.

Among the two groups who are assumed to visit MSB retail locations—unbanked immigrants and banked ones without internet or smartphone access—only the first group would likely use cash or similar instruments to pay for remittance transfers. Based on the relative share of these two groups, the Treasury Department and the IRS estimate that 60 percent of retail money transfers are funded by cash and cash-like instruments.¹⁶ Therefore, the Treasury Department and the IRS estimate that 30 to 36 percent of remittance transfers by MSBs are funded by cash.¹⁷ Applying these shares to the average 2019–2024 annual remittance transfer volume of \$520 billion results in annual cash remittance transfers totaling about \$156 billion to \$187 billion. These estimates are based on data from years before the remittance transfer tax went into effect.

the destination), and fluctuations in immigration flows. Excluding 2021 and 2022, the annual remittance transfers to foreign destinations averaged \$303 billion.

¹² This estimate is based on Remittance Prices Worldwide database analysis available in Remittance Prices Worldwide Quarterly, at https://remittanceprices.worldbank.org/sites/default/files/rpw_main_report_and_annex_q125_1_0.pdf.

¹³ A 2010 Census study using the 2008 CPS Migration Supplement estimates that foreign-born

households comprised 84 percent of the households that sent remittance transfers and accounted for 90 percent of the total amount of remittance transfers. The study is available at <https://www.census.gov/content/dam/Census/library/working-papers/2010/demo/POP-twps0087.pdf>.

¹⁴ “A Profile of Low-Income Immigrants in the United States” (2022), at https://www.migrationpolicy.org/sites/default/files/publications/mpi_low-income-immigrants-factsheet_final.pdf.

¹⁵ See full report at https://www.pewresearch.org/wp-content/uploads/sites/20/2024/01/PI_2024.01.31_Home-Broadband-Mobile-Use_FINAL.pdf.

¹⁶ The estimated share of retail payments funded by cash is $(0.07 / (0.07 + 0.0465)) = 60$ percent.

¹⁷ If retail transfers make up 50 to 60 percent of all transfers, and 60 percent of retail transfers are deemed to be funded by cash, then 30 percent (0.5×0.6) to 36 percent (0.6×0.6) of total remittance transfers are estimated to be funded with cash.

2. Defining Terms by Cross-Referencing and Modifying Regulation E Definitions

The proposed regulations generally adopt definitions employed in Regulation E that were initially promulgated for purposes of providing consumer protections while using electronic fund transfers. Because affected remittance transfer providers are already familiar with these terms from complying with EFTA, the proposed regulations minimize compliance burdens by not introducing new terms to affected providers.

Under the proposed regulations, an entity acting as an agent on behalf of remittance transfer providers would not itself be considered a remittance transfer provider. The decision to adopt this rule in the proposed regulations eases the potential compliance burden for the approximately 500,000 agents that work with MSBs. While these agents must adapt their current practices to collect the tax on remittance services, the MSBs must develop systems and internal controls in order to comply with the procedural rules of the ETPR as they relate to the tax on remittance transfers. Thus, under the proposed regulations, the compliance burden of the ETPR, such as familiarization with laws and regulations, recordkeeping, and reporting costs, falls primarily on MSBs rather than agents. Given their familiarity with EFTA and Regulation E, MSBs are better equipped to shoulder the ETPR compliance burden than their agents. MSBs can also leverage their size to absorb the fixed costs of complying with the ETPR on behalf of their network of agents. In the aggregate, this is less costly than an alternative where each agent would have to incur the full fixed costs of ETPR compliance.

The definition of “remittance transfer provider” in the proposed regulations departs from Regulation E by not adopting a safe harbor under which a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person provided 500 or fewer remittance transfers in the previous and current calendar years. If the proposed regulations were not issued, entities that currently qualify for the Regulation E safe harbor would face uncertainty whether they would need to collect and remit the remittance transfer tax. The proposed regulations provide certainty to entities potentially affected by the Regulation E safe harbor, though the affected entities may face an increase in compliance cost relative to the case where the Regulation E safe harbor was adopted in the proposed regulations.

The Treasury Department and the IRS estimate that not adopting the safe harbor provided under Regulation E would affect a limited number of remittance transfer providers and a small share of remittance transfers. In 2020, the CFPB was not aware of any MSB remittance transmitter providers with less than 500 annual transfers. Therefore, the Treasury Department and the IRS expect that very few, if any, MSBs currently qualify for the safe harbor. According to the same CFPB analysis, banks and credit unions are more likely to qualify for the safe harbor, but remittance transfers facilitated by these financial institutions are unlikely to be funded with cash and hence would not be taxable with or without the safe harbor.¹⁸

The safe harbor was not adopted in the proposed regulations because it is inconsistent with the operation of an efficient and effective excise tax. The safe harbor is not based on a characteristic of the remittance transfer or of the sender but on the transaction volume of the entity. Consequently, under such a safe harbor rule, identical remittance transfer transactions could be either taxable or nontaxable, depending on the vendor used. Some vendors could possibly reorganize their legal structures to avoid being subject to the remittance tax, and such restructuring would be an inefficient use of resources. In addition, with the safe harbor, entities would need to accurately predict their annual remittance transfer volume to avoid the increased tax reporting and collection costs associated with being a “remittance transfer provider.” Overall, the Treasury Department and the IRS expect the benefits of a consistent application of the remittance tax and lower economic distortions in the provision of remittance transfers from not adopting the safe harbor to outweigh the increased compliance costs for the relatively small number of affected low-volume entities.

3. Specifying the Tax Base of the Remittance Tax

The proposed regulations clarify that the amount subject to the remittance tax is the amount “transferred to the designated recipient.” Specifically, the tax base excludes identified fees and taxes paid by the sender to the remittance transfer provider but not transferred to the designated recipient. However, the tax base includes any

promotional bonuses transferred to the recipient, but which are not paid by the sender.

The Treasury Department and the IRS considered an alternative tax base that would include amounts paid by the sender but not transferred to the designated recipient but decided against this option. These amounts include transfer fees, State taxes, and other charges imposed or collected by the remittance transfer provider. They can vary by provider, location of the sender, destination of the recipient, payment method, speed of delivery, and the amount of transfer. Under this alternative tax base, the costs and profit of the remittance transfer provider that are associated with providing the remittance transfer service would be taxed in addition to the transfer amount. Remittances of the same amount would give rise to varying amounts of tax.

Including transfer fees and taxes in the base of the remittance transfer tax would increase the cost of a taxable remittance transfer to the sender. For example, if the fees to send a \$100 transfer were \$10, then including fees in the tax base would increase the tax due on this transaction from \$1.00 to \$1.10. The after-tax price of the transaction would increase from \$11.00 to \$11.10, an increase of 0.9 percent. This small increase in price would discourage taxable remittance transfers by a small amount, with the magnitude dependent on the elasticity of demand for remittance transfers.¹⁹

If provider fees and taxes were included in the remittance transfer tax base, then the tax can be analytically thought of as two separate taxes. The first, an excise tax on remittances and second, a targeted sales tax on the fees (inclusive of other taxes) charged by remittance transfer providers. While the primary distortion of the combined tax would be upon the after-tax price of remittances, the sales tax component of the larger tax base would introduce other distortions on remittance transfer providers. The sales tax component may affect providers and their senders differentially depending on factors such as cost structure, specialization, and location. The broader base may also encourage tax avoidance behavior by providers, such as bundling the price of services and charging a higher price for the untaxed service and a lower price for the taxed remittance transfer compared to when the services are

¹⁸ See CFPB's analysis at <https://www.federalregister.gov/documents/2020/06/05/2020-10278/remittance-transfers-under-the-electronic-fund-transfer-act-regulation-e#footnote-84-p34896>.

¹⁹ Recent literature suggests that the price elasticity of remittance transaction costs is around 0.09 (see Kpodar and Imam (2024), How do transaction costs influence remittances? *World Development*, vol. 177, May 2024, 106537, at <https://doi.org/10.1016/j.worlddev.2024.106537>).

purchased separately. These effects are not expected to be large, given that the tax rate is only one percent, but indicate that the economic distortions from the remittance tax would increase if the base included provider fees and other taxes. Thus, the decision to apply the remittance transfer tax to only the amount transferred would result in

lower economic distortions relative to a more expansive base that included provider fees and taxes.

4. Enumeration of Similar Physical Instruments That Trigger the Remittance Tax

Section 4475(c) authorizes the Secretary to identify physical, cash-like instruments that would be treated as

triggering the remittance tax. The proposed regulations add traveler's checks to the list of funding instruments that would give rise to taxable remittances. Traveler's checks are virtually indistinguishable from money orders and cashier's checks and are, therefore, a "similar physical instrument."

TABLE 2—TAXABLE PAYMENT INSTRUMENTS

<i>Included by statute</i>	<i>Included by proposed regulations</i>
—Cash	—Traveler's checks.
—Money orders.	
—Cashier's checks.	

TABLE 3—NON-TAXABLE PAYMENT INSTRUMENTS

<i>Excluded by the statute</i>	<i>Not included by proposed regulations</i>
—Direct debit from an account held in or by a financial institution	—All other instruments not included by statute or regulations, such as:
—Debit cards and credit cards issued in the U.S.	—Debit cards and credit cards issued outside the U.S.
	—ACH transfers.
	—Personal or business checks used as payment.
	—General-use prepaid debit cards.

By enumerating a finite list of instruments that are subject to the remittance tax, the proposed regulations provide clarification and ease compliance burdens for senders and remittance transfer providers. For senders, knowing which payment instruments give rise to taxable transfers eliminates the uncertainty around the fees and taxes they need to cover before they arrive at the retail location to send remittance transfers. For providers, having a finite, exhaustive list of taxable payment instruments provides needed certainty for payment system updates and compliance with ETPR as well as for agent notifications and trainings.

A traveler's check—the only instrument added by the proposed regulations under the authority granted in section 4475(c)—is not a widely accepted payment method at remittance transfer providers. Based on information publicly available to consumers, payment methods accepted at retail locations are primarily cash, and in some instances, debit and credit cards. The Treasury Department and the IRS therefore consider that adding this instrument to the list of taxable funding sources will have minimal effects on the behavior of senders or remittance transfer providers.

Other instruments were considered and not added to the list. The Treasury Department and the IRS determined that ACH transfers, general-use prepaid cards, and personal and business checks

are not "similar physical instruments" that trigger the tax.

Debit and credit cards that are issued in the United States are treated under the law as not triggering the remittance transfer tax when used to fund a remittance transfer. The proposed regulations do not include any credit or debit cards in the list of tax-triggering instruments, even when issued in a foreign country.

In general, if an instrument were added to the taxable list, senders would likely switch away from that type of payment instrument towards non-taxable instruments. The ability of a sender to switch instruments depends on the characteristics of the sender and the substitutability of the instruments. For example, banked households would generally find it easy to find a similar non-taxable funding instrument, as many of the instruments are tied to having an account at a financial institution. However, for non-banked households, substitution of payment methods is more difficult. For such alternative methods to be considered, they need to meet two conditions: (1) they must be accessible to senders, and (2) using them should be less costly relative to cash than the one percent remittance tax. However, the Treasury Department and the IRS consider that these conditions would rarely both be met for non-banked households.²⁰

²⁰ In 2023, 66.2 percent of unbanked households only use cash. See FDIC National Survey of

Among the non-enumerated instruments with reasonably wide acceptance at remittance transmitters (although typically only through digital platforms), general-use prepaid cards would likely be the most accessible instrument to senders with limited access to the banking system. General-use prepaid cards are able to support many financial transactions on digital platforms, and in some cases, can present a close alternative to bank accounts.²¹ However, general-use prepaid cards come with numerous fees and charges, including activation fees, monthly fees, reloading fees, and many others the sum of which add up to significantly more than one percent of the usable card value in most cases.²² Therefore, obtaining a general-use prepaid card solely for the purpose of funding a remittance transfer and avoiding the remittance transfer tax would not be economical for most senders and is unlikely to become economical in the future.

There may be instruments not included on the list of taxable funding

Unbanked and Underbanked Households in 2023, at <https://www.fdic.gov/household-survey>.

²¹ Users of reloadable prepaid cards report using them to receive direct deposits, pay monthly bills, build up savings, send and receive money transfers, and more. See more detail at <https://www.fdic.gov/household-survey>.

²² See CFPB, What types of fees do prepaid cards typically charge? at <https://www.consumerfinance.gov/ask-cfpb/what-types-of-fees-do-prepaid-cards-typically-charge-en-2053/#:~:text=With%20most%20prepaid%20cards%2C%20you,card%20and%20how%20it%27s%20used>.

instruments that are not currently typically accepted by remittance transfer providers but may become more commonly accepted and used once remittance transfer providers and senders understand that these instruments would result in non-taxable remittance transfers. For example, remittance transfer providers may change their policies to more commonly accept store gift cards, gift certificates, or loyalty cards to pay for remittance transfers, and some senders may switch from cash to those methods of payment. There is, however, an anti-avoidance provision in the proposed regulations that would limit the ability to avoid the remittance tax through buying a nontaxable payment instrument with cash and immediately using it to fund a remittance transfer.

5. Treatment of Check Cashing

Under the proposed regulations, checks are not on the list of instruments that would trigger the remittance tax. However, the proposed regulations provide that when a personal or business check payable to the sender is cashed by a remittance transfer provider (or their agent) and funds from the cashed check are used to pay for a remittance transfer, the remittance transfer is treated as being paid for with cash and is therefore taxable. This

treatment applies regardless of whether the sender ever has possession of the cash from the cashed check or whether the sender is charged an explicit check-cashing fee.

In clarifying this treatment, the proposed regulations provide clarity and certainty to both remittance transfer providers and senders who engage in check cashing transactions. This increased clarity should lower compliance burdens for remittance transfer providers since all remittance transfers involving cashed checks payable to the sender will be treated the same way no matter whether cash is handed back to the sender. In addition, this clarification eliminates potential avoidance behaviors using cashed checks. In the absence of the proposed regulations, senders who would have otherwise funded a remittance with cash may have switched to endorsing, say, a payroll check and garnered the funds for the remittance through check-cashing services. Senders and remittance providers might have then claimed that such a remittance transfer was not funded with cash, particularly in the case of transactions where cash from a cashed check was not physically handed to the sender.

The Treasury Department and the IRS do not have the data and models

necessary to quantify the economic effects of the proposed regulations' treatment of remittance transfers that involve check-cashing services, but NMLS annual data is available on the volume of check-cashing by MSBs and can provide information on how the size of check cashing compares to money transfers. Table 4 presents the total annual volume of check-cashing by MSBs, which reached about \$18 billion in 2024. Averaged across the years 2019–2024, check-cashing volume is about 0.5 percent of total domestic and foreign money transfers and about 3 percent of total foreign only (remittance) money transfers. The 3 percent represents an upper bound of the amount of remittance transfers that could have been funded by cashed checks, but the Treasury Department and the IRS consider 0.5 percent to be a more reasonable estimate of the share of remittances funded by cashed checks, as that assumes that cashed checks were used to fund both domestic and foreign transfers.

However, consumers cash checks at MSBs for a variety of reasons and not solely to furnish funds for money transfers. Therefore, the total share of remittances funded by cashed checks is likely even lower than 0.5 percent.

TABLE 4—SIZE OF CHECK-CASHING AND MONEY TRANSFERS
[Dollar amounts are in millions of USD]

	Total check cashing	Total money transfer, domestic and foreign	Share of check cashing as a percentage of all money transfers	Total money transfer, foreign only	Share of check cashing as a percentage of foreign money transfers
2019	10,436	1,310,111	0.80	235,820	4.43
2020	17,875	1,821,770	0.98	273,265	6.54
2021	16,623	3,768,884	0.44	942,221	1.76
2022	14,059	3,715,101	0.38	965,926	1.46
2023	13,159	3,770,451	0.35	339,341	3.88
2024	17,925	4,058,716	0.44	365,284	4.91
Average	15,013	3,074,172	0.49	520,310	2.89

6. Summary

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

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of OMB before collecting information from the public, whether

that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in these proposed regulations relate to reporting and recordkeeping requirements that would allow section 4475 collectors to meet their tax reporting obligations. The collections of information would generally be used by the IRS for tax compliance purposes and by collectors to facilitate proper tax reporting and compliance. The likely

respondents are corporations and partnerships. The burden associated with these information collections will be included in Form 720 and its instructions and approved with OMB control number 1545–0023 in accordance with PRA procedures under 5 CFR 1320.10.

Any burden associated with a claim for refund of the remittance transfer tax is included in the relevant form and its instructions approved with the associated OMB control number in accordance with PRA procedures under 5 CFR 1320.10.

Books or records relating to a collection of information must be retained as long as their contents may

become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

III. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA), the Secretary of the Treasury hereby certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the remittance transfer tax is imposed on senders, who are defined in this notice of proposed rulemaking as natural persons, and collected by the approximately 600 remittance transfer providers in the United States,²³ few of which are likely to meet the relevant definition of a small entity under the RFA and regulations thereunder. Although some small entities, such as grocery stores, convenience stores, and pharmacies, are engaged as agents of these remittance transfer providers, the proposed regulations would clarify that an entity is not deemed to be acting as a remittance transfer provider when it performs activities as an agent on behalf of a remittance transfer provider. As a result, any remittance transfer tax-related burden borne by such a small entity would be properly attributable to the remittance transfer provider and not to the small entity as such. Even were that not the case, any remittance transfer tax-related burden borne by an agent of a remittance transfer provider (for example, additional training), regardless of whether a small entity for RFA purposes, would likely constitute a small change in the already existing burdens imposed by such entity's contractual relationship with the remittance transfer provider. These proposed regulations will not, therefore, create additional obligations for, or have a significant economic impact on, a substantial number of small entities, and analysis under the RFA is not required. Notwithstanding this certification, the Treasury Department and the IRS welcome comments on the

impact of these proposed regulations on small entities.

IV. Submission to the Small Business Administration

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small businesses.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These proposed rules do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

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

Comments and Requests for Public Hearing

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

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a

public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Statement of Availability of IRS Documents

The IRS notice cited in this preamble is published in the *Internal Revenue Bulletin* and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal author of these proposed regulations is Julia Barlow of the Office of the Associate Chief Counsel (Energy, Credits, and Excise Tax). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 40

Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 49

Excise taxes, Reporting and recordkeeping requirements, Telephone, Transportation.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR parts 40 and 49 as follows:

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

■ **Paragraph 1.** The authority citation for part 40 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 2.** Section 40.0–1 is amended by revising paragraphs (a) and (e) to read as follows:

§ 40.0–1 Introduction.

(a) *In general.* The regulations in this part are designated the *Excise Tax Procedural Regulations*. The regulations in this part set forth administrative provisions relating to the excise taxes imposed by chapters 31 through 34, 36, 38, 39, 49, and 50A of the Internal Revenue Code (Code) (except for the chapter 32 tax imposed by section 4181 (firearms tax) and the chapter 36 taxes imposed by sections 4461 (harbor maintenance tax) and 4481 (heavy vehicle use tax)), and to floor stocks taxes imposed on articles subject to any of these taxes. Chapter 31 relates to retail excise taxes; chapter 32 to

²³ A review of North American Industry Classification System (NAICS) data collected by the IRS showed that such data was insufficiently granular to identify the remittance transfer providers within significantly broader categories, such as "Financial Transactions Processing, Reserve, and Clearinghouse Activities," (NAICS Code 522320) and thus a poor indicator of the size of such entities, regardless of how measured. For purposes of this RFA certification, the Treasury Department and the IRS are instead relying on publicly available data sources to estimate the total number of remittance transfer providers in the United States.

manufacturers' excise taxes; chapter 33 to taxes imposed on communications services and air transportation services; chapter 34 to taxes imposed on certain insurance policies; chapter 36 to taxes imposed on transportation by water and remittance transfers; chapter 38 to environmental taxes; chapter 39 to taxes imposed on registration-required obligations; chapter 49 to taxes imposed on indoor tanning services; and chapter 50A to taxes imposed on the sale of designated drugs. References in this part to taxes also include references to the fees imposed by sections 4375 and 4376 of the Code. *See* parts 43, 46 through 49, and 52 of this chapter for regulations related to the imposition of tax.

* * * * *

(e) *Applicability dates*—(1) *Paragraph (a)*. Paragraph (a) of this section applies to returns required to be filed under § 40.6011(a)–1 for calendar quarters beginning on or after [date of publication of final regulations in the **Federal Register**]. For rules that apply before [date of publication of final regulations in the **Federal Register**], *see* 26 CFR part 40, revised as of April 1, 2025.

* * * * *

PART 49—FACILITIES AND SERVICES EXCISE TAXES

■ **Par. 3.** The authority citation for part 49 is amended by adding an entry for § 49.4475–1 in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 49.4475–1 also issued under 26 U.S.C. 4475(b) and (c).

■ **Par. 4.** Section 49.0–1 is amended by revising the second sentence to read as follows:

§ 49.0–1 Introduction.

* * * The regulations relate to the taxes on communications and transportation by air imposed by chapter 33 of the Internal Revenue Code (Code), the tax on remittance transfers imposed by section 4475 of the Code, and the taxes on indoor tanning services imposed by section 5000B of the Code.

* * *

Subpart G [Redesignated as Subpart H]

■ **Par. 5.** Subpart G is redesignated as subpart H.

■ **Par. 6.** Add a new subpart G to read as follows:

Subpart G—Remittance Transfers

§ 49.4475–1 Remittance transfers.

(a) *In general.* Section 4475(a) of the Internal Revenue Code (Code) imposes a 1 percent tax on taxable remittance transfers (remittance transfer tax). Paragraph (b) of this section provides definitions that apply for purposes of section 4475 and this section. Paragraph (c) of this section provides rules regarding when the remittance transfer tax attaches to taxable remittance transfers described in paragraph (d) of this section. Paragraph (e) of this section provides examples that illustrate the application of section 4475 and this section.

(b) *Definitions.* The following definitions apply for purposes of section 4475 and this section.

(1) *Cash.* The term *cash* means United States dollars or any foreign currency in physical form that is issued by a government or a central bank.

(2) *Consumer.* The term *consumer* means a natural person.

(3) *Designated recipient.* The term *designated recipient* means any person specified by the sender as the authorized recipient of a remittance transfer to be received at a location in a foreign country. A remittance transfer is received at a location in a foreign country if funds are to be received at a location physically outside of any State.

(4) *Remittance transfer*—(i) *In general.* The term *remittance transfer* means the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider. The term applies regardless of whether the sender holds an account with the remittance transfer provider.

(ii) *Exclusions.* The term *remittance transfer* does not include—

(A) *Small value transactions.* Transfer amounts, as described in 12 CFR 1005.31(b)(1)(i) revised as of January 1, 2026, of \$15.00 or less.

(B) *Securities and commodities transfers.* Any transfer that is excluded from the definition of electronic fund transfer under 12 CFR 1005.3(c)(4) revised as of January 1, 2026.

(5) *Remittance transfer provider*—(i) *In general.* The term *remittance transfer provider* means any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such person. A person is not a remittance transfer provider merely because it performs activities as an agent on behalf of a remittance transfer provider. For example, a grocery store would not be a remittance transfer provider merely because it acts as an agent of a

remittance transfer provider to offer consumers remittance transfer services.

(ii) *Non-applicability of normal-course-of-business safe harbor.* For purposes of section 4475 and this section, the safe harbor provided in 12 CFR 1005.30(f)(2), which provides a threshold number of remittance transfers below which a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business, does not apply.

(6) *Sender.* The term *sender* means a consumer in a State who primarily for personal, family, or household purposes requests a remittance transfer provider to send a remittance transfer to a designated recipient.

(7) *State.* The term *State* means any State or territory of the United States, or the District of Columbia.

(c) *Attachment of tax*—(1) *In general.* The remittance transfer tax attaches at the time a remittance transfer described in paragraph (d) of this section is made. A remittance transfer is made at the earlier of the time the remittance transfer is initiated by the remittance transfer provider or the time the sender pays the remittance transfer provider (or its agent). For example, if a sender pays for a remittance transfer on December 31, 2026, the remittance transfer provider initiates the transfer on the same day, and the funds are disbursed to the designated recipient on January 2, 2027, such remittance transfer occurred on December 31, 2026, and is reportable for the fourth calendar quarter of 2026 and not in the first calendar quarter of 2027. *See* part 40 of this chapter for rules relating to returns, payments, deposits, and other procedural rules applicable to this section.

(2) *Canceled or expired remittance transfers.* The remittance transfer tax attaches when the remittance transfer is made regardless of whether the remittance transfer is ever paid out to the designated recipient (for example, if the transfer was canceled or expired). In a case in which the transfer is canceled or expires and the amount of the remittance transfer is returned to the sender, the sender may be eligible to file a claim for refund of the remittance transfer tax with the Internal Revenue Service. *See* sections 6401 and 6402 of the Code.

(d) *Taxable remittance transfers*—(1) *In general.* The remittance transfer tax applies only to remittance transfers for which the sender provides cash, a money order, a cashier's check, or a traveler's check to the remittance transfer provider. Subject to the anti-avoidance rule in paragraph (d)(4) of this section, this is the exclusive list of instruments that, when provided to a

remittance transfer provider, trigger the remittance transfer tax. Settlement of the issuer's payment obligation to the remittance transfer provider under a money order, cashier's check, or traveler's check does not constitute *withdrawal* for purposes of section 4475(d)(1) and, consequently, the source of any funds transferred is not relevant if such instruments have been provided to a remittance transfer provider.

(2) *Personal or business check cashed by remittance transfer provider.* If a remittance transfer provider (or its agent) cashes a personal or business check payable to the sender and some or all of the cash from the check cashing is used to fund a remittance transfer, such transaction is treated as a remittance transfer for which the sender provides cash to the remittance transfer provider, regardless of whether the sender ever has actual possession of any resulting cash.

(3) *Amount subject to taxation.* The remittance transfer tax is imposed on the total amount that will be transferred to the designated recipient, including any amount provided by the sender, the remittance transfer provider, or any other person (for example, promotional bonuses or discounts), regardless of how such amounts are characterized for purposes of the remittance transfer. Fees, taxes, and other amounts that will not be transferred to the designated recipient with respect to any remittance transfer, including the amount of the remittance transfer tax imposed, are excluded from the total amount on which the remittance transfer tax is imposed.

(4) *Transactions for tax-avoidance purposes.* If a sender and remittance transfer provider (or its agent) or third party engage in a transaction (or series of transactions) with a principal purpose of avoiding the remittance transfer tax, the Secretary may disregard or recharacterize the transaction (or series of transactions) in accordance with its substance. The determination of whether a sender and remittance transfer provider (or its agent) or third party have engaged in a transaction (or series of transactions) with a principal purpose of avoiding the tax is based on all facts and circumstances, including a remittance transfer provider's or third party's pattern of conduct, the timing of the transactions involved, the amount of the transactions involved, and the relationship between any parties involved. For example, if a sender provides \$500.00 in cash to a remittance transfer provider (or its agent) in exchange for a general-use prepaid card loaded with \$500.00 and then immediately initiates a remittance

transfer in the amount of \$500.00 paid for with the general-use prepaid card, the series of transactions (the purported purchase of a general-use prepaid card immediately followed by a remittance transfer) may be recharacterized as a remittance transfer in which the sender provided cash to the remittance transfer provider. As a result, the remittance transfer tax attaches to the remittance transfer and, if not collected from the sender at the time of attachment, becomes a liability of the remittance transfer provider. The same result would arise if, under the same sequence of events, the consumer immediately provides the general-use prepaid card to a relative who initiates the remittance transfer with the remittance transfer provider.

(e) *Examples—(1) In general.* The following examples illustrate the application of section 4475 and this section. For purposes of these examples, Sender is a sender as defined in paragraph (b)(6) of this section, Designated Recipient is a designated recipient as defined in paragraph (b)(3) of this section, and Remittance Transfer Provider is a remittance transfer provider as defined in paragraph (b)(5) of this section. Retailer is a retailer that accepts payments for remittance transfers from consumers and remits such payments to Remittance Transfer Provider (as an agent of Remittance Transfer Provider).

(2) *Example 1: Fees, taxes, and bonuses—(i) Facts.* Sender engages Remittance Transfer Provider through Retailer in State A to transfer \$1,000.00 to Designated Recipient. Sender pays cash to Retailer for the remittance transfer. Remittance Transfer Provider charges a service fee of \$20.00 for the remittance transfer and, as part of a marketing promotion, transmits an additional \$5.00 "bonus" to Designated Recipient. State A imposes a \$12.00 tax on the transaction.

(ii) *Analysis.* Because Sender, Designated Recipient, and Remittance Transfer Provider are a sender, designated recipient, and remittance transfer provider, respectively, as those terms are defined in paragraph (b) of this section, and because Sender requested an electronic transfer of funds to Designated Recipient, the transfer qualifies as a remittance transfer under the definitions provided in paragraph (b) of this section. Moreover, because Sender has provided Retailer (as an agent of Remittance Transfer Provider) an instrument described in paragraph (d)(1) of this section (cash), the remittance transfer is, upon payment by Sender, subject to the remittance transfer tax. The total amount

transferred to Designated Recipient is \$1,005.00, which includes the amount provided by Sender to be sent to Designated Recipient (\$1,000.00) and the "bonus" transmitted to Designated Recipient by Remittance Transfer Provider (\$5.00) but excludes Remittance Transfer Provider's service fee (\$20.00) and the State A tax (\$12.00), neither of which are sent to Designated Recipient. The remittance transfer tax imposed is one percent of \$1,005.00, or \$10.05.

(3) *Example 2: Remittance transfer paid for with a personal check—(i) Facts.* The facts are the same as those provided in paragraph (e)(2)(i) of this section (Facts of *Example 1*), except that Sender provides Retailer (as an agent of Remittance Transfer Provider) with a personal check payable to Remittance Transfer Provider.

(ii) *Analysis.* For the reasons provided in paragraph (e)(2)(ii) of this section (Analysis of *Example 1*), the transfer qualifies as a remittance transfer under the definitions provided in paragraph (b) of this section. Sender has not, however, provided Retailer (as an agent of Remittance Transfer Provider) any instrument described in paragraph (d)(1) of this section. As a result, the remittance transfer will not, upon payment by Sender, be subject to taxation under section 4475(a). The result would be the same if Sender had instead provided, for example, a debit card, general-use prepaid card, credit card, or store gift card.

(4) *Example 3: Remittance transfer paid for using check-cashing service—(i) Facts.* The facts are the same as those provided in paragraph (e)(2)(i) of this section (Facts of *Example 1*), except that Remittance Transfer Provider offers customers a check cashing service for a fee of \$4.00 and Sender provides Retailer (as an agent of Remittance Transfer Provider) a \$1,000.00 paycheck payable to Sender and requests a transfer in the amount of \$800.00. Retailer (as an agent of Remittance Transfer Provider) charges Sender the Remittance Transfer Provider's \$20.00 service fee and the State A's \$12.00 tax, but does not charge Sender the \$4.00 check-cashing fee.

(ii) *Analysis.* For the reasons provided in paragraph (e)(2)(ii) of this section (Analysis of *Example 1*), the transfer qualifies as a remittance transfer under the definitions provided in paragraph (b) of this section. Under paragraph (d)(2) of this section, the transaction is treated as a remittance transfer for which the sender provided cash. This is true despite the fact that Retailer (as an agent of Remittance Transfer Provider) did not charge Sender the \$4.00 check-

cashing fee. As a result, the remittance transfer is, upon payment by Sender, subject to taxation under section 4475(a). The remittance transfer tax

imposed is one percent of \$805.00, or \$8.05.

(f) *Applicability date.* This section applies to remittance transfers made in calendar quarters beginning on or after

[date of publication of final regulations in the **Federal Register**].

Frank J. Bisignano,
Chief Executive Officer.

[FR Doc. 2026-07085 Filed 4-10-26; 8:45 am]

BILLING CODE 4831-GV-P

Notices

Federal Register

Vol. 91, No. 70

Monday, April 13, 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

Agricultural Marketing Service

[Doc. No. AMS–SC–24–0068]

Revising U.S. Standards for Grades of Lemons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is revising the United States (U.S.) Standards for Grades of Lemons (or Standards) by adding the term “seedless lemons.” In addition, AMS is incorporating marking requirements for lemons meeting the seedless definition.

DATES: Applicable May 13, 2026.

FOR FURTHER INFORMATION CONTACT: Andrew Buss, by phone (231) 260–5913; fax (540) 361–1199; or email at andrew.buss@usda.gov. Copies of the U.S. Standards for Grades of Lemons are available at <https://www.ams.usda.gov/grades-standards/fruits>.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture “[t]o develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.”

AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The U.S. Standards for Grades of Fruits and Vegetables that no longer appear in the Code of Federal Regulations are maintained by USDA, AMS, Specialty Crops Program at the following web site: [https://www.ams.usda.gov/grades-](https://www.ams.usda.gov/grades-standards/fruits)

standards. AMS is revising the U.S. Standards for Grades of Lemons using the procedures that appear in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36).

Background

On March 25, 2024, California Citrus Mutual, a voluntary non-profit trade association for California’s citrus growers, petitioned USDA to revise the lemon standard to incorporate a seedless lemon definition and marking requirements. The petitioner represents 95 percent of the lemon producers nationwide. In their petition, California Citrus Mutual explained that advancements in the domestic lemon industry led to the development of seedless lemon varieties. AMS worked closely with California Citrus Mutual throughout the development of these revisions, soliciting their comments and suggestions about the standards through discussion drafts and presentations. On September 11, 2025, AMS published in the **Federal Register** (90 FR 43947; Docket No. AMS–SC–24–0068) a notice and request for comments on proposed revisions to the U.S. Standards for Grades of Lemons. These revisions establish a definition for seedless lemons along with marking requirements to maintain consistency in the industry.

Through this action, AMS is revising the U.S. Standards for Grades of Lemons to add a definition for the term “seedless lemons” stating that “when marked ‘seedless,’ a 100-count composite sample shall have not more than 6 fruit (or 6 percent) containing seeds (irrespective of number or development per fruit). Seeds include fully developed and undeveloped seeds (or pips).” Written this way, any undeveloped seeds will be counted against that piece of fruit. The percentage of lemons with seeds is based on the number of fruit with seeds, rather than the number of seeds within a lemon. This new definition is not applied to affect grade.

In addition, through this action, AMS will incorporate marking requirements to the Standards for lemons meeting this seedless definition. The new marking requirements do not affect grade. The marking requirements specify that “when lots are marked ‘seedless,’ the term ‘seedless’ shall be legibly marked on at least 95 percent of the containers,

including consumer units.” These marking requirements will provide buyers and consumers with clear information on the product being bought and sold between parties. Without marking requirements, it would be difficult to differentiate between lots of seedless lemons and lots of lemons with seeds to determine when the new definition applies.

Comments

AMS provided a 60-day comment period for interested parties to submit comments on the proposed grade standards. In response to its request, AMS received and considered 27 comments. All comments were posted on <https://www.regulations.gov>. Nineteen commenters expressed their support for the proposed revisions to the U.S. Standards for Grades of Lemons.

One commenter recommended AMS clarify the sampling methodology to ensure the process is uniform across inspection. AMS agrees that providing a clear sampling methodology will help ensure the process is uniform across inspections. However, AMS finds it is more appropriate to include the sampling methodology in the USDA Lemons Shipping Point and Market Inspection Instructions, located online at <https://www.ams.usda.gov/grades-standards/lemon-grades-and-standards>, rather than including it directly into the U.S. Standards for Grades of Lemons, because that is where other similar instructions are provided. Therefore, AMS made no changes to the proposed revisions to the Standards based on this comment.

Another commenter stated that the marking requirement for “seedless” lemons should be more specific and include a mandated font and text size. The commenter also stated that AMS should consider the impact the new definition has on small farms and consider a phase-in period for these small farms. While AMS acknowledges this comment, AMS does not mandate specific fonts or text sizes for its U.S. Standards. The marking requirements do not include a required font or text size because lemon packaging can vary in size. Accordingly, AMS finds that it would be impractical and overly burdensome to producers and packers to require such font and text size specifications. Additionally, AMS does

not find that a phase-in period is necessary for the industry because the Standards are voluntary, and producers are not required to use the term “seedless” on their label. However, if the lemons are labeled as “seedless” on the packaging, the term “seedless” needs to be on at least 95% of the containers. Accordingly, AMS made no changes to the proposed revisions to the Standards based on this comment.

Two anonymous commenters stated AMS should include a statement on the label to indicate whether the lemons are a Genetically Modified Organism (GMO). While AMS acknowledges these comments, that type of labeling is outside the scope of this revision to the U.S. Standards. The U.S. Standards are a measure of a commodity’s quality and condition and do not address the regulation of GMOs. Accordingly, AMS made no changes to the proposed revisions to the Standards based on these comments.

Another comment stated: (1) AMS should “further clarify the specific requirements for the ‘seedless lemon’ label” (such as noting size, shape, label position, *etc.*); (2) AMS should provide the theory or statistics on which the seedless lemon definition is based; (3) undeveloped seeds should not be counted in the seedless lemon definition because that is “too strict” and these undeveloped seeds do not affect taste; and (4) “it is recommended to use ‘seed/seed kernel count per fruit’ as the primary criteria for assessing seedless lemons.” The commenter further explained that this method of measurement is the current “international standard for defining seedless agricultural products.”

AMS acknowledges this comment and the issues it raises. With respect to the commenter’s first point regarding labeling requirements, AMS notes that these grade standards are voluntary, and that AMS does not impose specific labeling requirements regarding size, shape, or label positioning. As noted above, it would be overly burdensome to require specific labeling requirements like size, shape, or label positioning because lemon packaging may vary. AMS included marking requirements (*i.e.*, to include the term “seedless”) to serve as a declaration of the product for buyers and consumers so that the seedless lemons definition can be applied when containers are marked “seedless.” With respect to the commenter’s second point, the industry initially based the seedless definition framework on Florida’s state seedless tangerine standard (20–13.0041) and then updated it to the proposed definition to align with cultivar

advancements and retailer expectations. As newer seedless lemon cultivars have been developed, the petitioners discovered that mature trees (3+ years) generally contain no seeds, whereas an occasional seed can be found from lemons originating from juvenile trees. California Citrus Mutual originally considered proposing to set the definition’s percentage of fruit with seeds at one percent but ultimately increased the percentage in their proposed definition to six percent to allow for more leeway. The historical counts of seeds in seedless lemons align with this definition. In response to the commenter’s third point regarding the strictness of the definition, AMS determined after several discussions that undeveloped seeds should be counted against the seedless definition because both are considered seeds to buyers and consumers. It is understood that undeveloped seeds do not affect taste but including them in the definition will better align the standard with consumer expectations for seedless lemons. Lastly, regarding the commenter’s suggested measurement methodology, AMS responds that the seedless definition is based on the number of fruits that contain seeds, rather than the “seed/seed kernel count per fruit” because consumers expect seedless lemons to be free of seeds and it is expected that most lemons will not contain any seeds. Written this way, if a small subset of lemons in a lot were seeded (and contained many seeds), the number of seeds in a single fruit would not set the lot back significantly as it would with a “seed/seed kernel count per fruit.” According to the California Citrus Mutual’s petition, the seedless definition would cover most of the seedless lemon varieties currently available on the market. Additionally, based on the predicted growing market projections provided by California Citrus Mutual’s petition for lemons covered by the seedless definition, it appears that customers are not concerned with whether a seedless lemon contains one seed or several; they are only concerned whether the lemon is truly seedless or contains any seeds at all. For these reasons, AMS made no changes to the proposed revisions to the Standards based on this comment.

Another comment asserted that AMS did not adhere to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, Executive Order 12866, and the Unfunded Mandates Reform Act in this agency action to revise the U.S. Standards for Grades of Lemons. The commenter further suggested several remedies.

While the agency action the commenter is referring to was a notification and request for comments, and not a proposed rule, the notification was included in the proposed rule category in the **Federal Register** and on the regulations.gov website. Any proposed actions to develop, revise, suspend, or terminate the U.S. Standards for Grades of Lemons are subject to the requirements found at 7 CFR part 36. Accordingly, as noted above, AMS published a notification and request for comments in the **Federal Register** on September 11, 2025, which included a 60-day comment period for interested persons, ending November 10, 2025. Further, AMS clarifies that, contrary to the commenter’s additional assertions, there are no Federal marketing orders for lemons. After reviewing the comment, AMS determined all the statutory and procedural requirements for this action have been met. Accordingly, AMS made no changes to the proposed revisions to the Standards based on this comment.

Two additional comments consisted of only a few words such as “lemons” or “I love lemons” and were not considered.

AMS is moving forward with the revisions to the U.S. Standards for Grades of Lemons as proposed by California Citrus Mutual as these revisions will provide a common language for trade, better reflect the current marketing of fruits and vegetables, and provide uniformity on the buying and selling of seedless lemons. Accordingly, AMS is revising the U.S. Standards for Grades of Lemons by adding the following definition of seedless lemons and associated marking requirements:

Seedless Lemons.

Section 51.2799 Seedless lemons.

(a) Definition. When marked “seedless,” a 100-count composite sample shall have not more than 6 fruit (or 6 percent) containing seeds (irrespective of number or development per fruit). Seeds include fully developed and undeveloped seeds (or pips).

(b) Marking requirements. When lots are marked “seedless,” the term “seedless” shall be legibly marked on at least 95 percent of the containers, including consumer units.

Authority: 7 U.S.C. 1621–1627.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–07060 Filed 4–10–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE**Privacy Act of 1974; System of Records**

AGENCY: United States Department of Agriculture (USDA).

ACTION: Notice of modified systems of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, USDA proposes to modify 12 systems of records to include a new routine use that permits disclosure of records to the U.S. Department of the Treasury for the purpose of identifying, preventing, or recouping improper payment consistent with applicable law. This modification notice describes the routine use and identifies the affected systems. In the modified systems of records, USDA maintains records associated with rural development program participants; business and vendor information supporting food and nutrition services; financial and customer data related to farm service programs; veterinary loan administration; compliance and enforcement activities under the Federal Crop Insurance Act; employee assistance and benefit programs; and USDA's accounting, budgeting, procurement, and acquisition functions.

DATES: This notice of revision will be open for a 30-day notice and comment period following its publication in the **Federal Register**, during which time written comments may be submitted. Submit comments on or before May 13, 2026. This revision will be effective upon publication. Routine uses will become effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments on this notice, identified by Docket Number SBA-2025-0069 by any of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments for Docket Number SBA-2025-0069.
- *Mail/Hand Delivery/Courier:* Submit written comments to Chief Privacy Officer Director, Privacy Division, Cybersecurity & Privacy Operations Center (CPOC) 1400 Independence Ave. SW, Washington, DC 20250

FOR FURTHER INFORMATION CONTACT: Chief Privacy Officer, Director, Privacy Division, 1400 Independence Ave. SW, Washington, DC 20250 or via email, SM.OCIO.CIO.UsdaPrivacy@usda.gov, telephone (202) 853-4378.

SUPPLEMENTARY INFORMATION:**I. Background**

In accordance with OMB Memorandum M-25-32, the USDA Privacy Division conducted a review of its Privacy Act system of records notices (SORNs) to ensure alignment with E.O. 14249 and Federal efforts to reduce improper payments and strengthen program integrity. As a result of this review, USDA identified 12 systems of records requiring modification to support disclosures to the U.S. Department of the Treasury's Do Not Pay Working System. The change involves adding a new routine use to each of the identified systems of records. This routine use will authorize the disclosure of information relevant to verifying payment and award eligibility through the Do Not Pay Working System.

The purpose of this modification notice is to enhance USDA's ability to prevent improper payments, comply with government-wide financial integrity mandates, and improve operational efficiency in determining eligibility for Federal funds. It strengthens the agency's data sharing posture in support of transparency and accountability.

SYSTEM NAMES AND NUMBERS:

Current or Prospective Producers or Landowners, Applicants, Borrowers, Grantees, Tenants, and other participants in RD programs.	USDA/RD-1.
Persons Doing Business with the Food and Nutrition Service	USDA/FNS-10.
Applicant/Borrower	USDA/FSA-14.
Farm Records File (Automated)	USDA/FSA-2.
FAS Child Day Care Assistance Records System	USDA/FAS-5.
Financial Systems	USDA/OCFO-10.
Information on Persons Identified as Responsible for Serious Deficiencies, proposed for Disqualification, or Disqualified to Participate as Principals or Family Day Care Home Operators in the Child and Adult Care Food Program (CACFP).	USDA/FNS-11.
List of Ineligible Producers	FCIC-8.
National SNAP Information Database	USDA/FNS-15.
USDA Child Care Tuition Assistance Records System	USDA/OHRM-5.
USDA Integrated Acquisition System	USDA/DA-01.
Veterinary Medicine Loan Repayment Program (VMLRP)	USDA/NIFA-1.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Please refer to the **Federal Register** citations in the table below.

SYSTEM MANAGER(S):

This modification notice does not alter the system manager information for each of the listed systems. For details regarding the system manager, please

refer to the most recently published full system of records notice for each system

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To the U.S. Department of the 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.

HISTORY:

System name	System No.	Publication date; citation
Current or Prospective Producers or Landowners, Applicants, Borrowers, Grantees, Tenants, and other participants in RD programs.	USDA/RD-1	September 6, 2024; 89 FR 72820.
Persons Doing Business with the Food and Nutrition Service	USDA/FNS-10	August 20, 1991; 56 FR 40963.
Applicant/Borrower	USDA/FSA-14	March 22, 2019; 84 FR 10882.

System name	System No.	Publication date; citation
Farm Records File (Automated)	USDA/FSA-2	December 12, 2007; 72 FR 70559.
FAS Child Day Care Assistance Records System	USDA/FAS-5	January 18, 1994; 59 FR 2951.
Financial Systems	USDA/OCFO-10	February 10, 2010; 75 FR 6622.
Information on Persons Identified as Responsible for Serious Deficiencies, proposed for Disqualification, or Disqualified to Participate as Principals or Family Day Care Home Operators in the Child and Adult Care Food Program (CACFP).	USDA/FNS-11	September 1, 2021; 86 FR 48975.
List of Ineligible Producers	FCIC-8	January 5, 2007; 72 FR 523.
National SNAP Information Database	USDA/FNS-15	June 23, 2025; 90 FR 26521.
USDA Child Care Tuition Assistance Records System	USDA/OHRM-5	July 20, 2010; 75 FR 42085.
USDA Integrated Acquisition System	USDA/DA-01	April 24, 2008; 73 FR 22125.
Veterinary Medicine Loan Repayment Program (VMLRP) Record System, USDA/NIFA-1.	USDA/NIFA-1	December 13, 2010; 75 FR 77607.

Scherida Lambert,

*Chief Privacy Officer, United States
Department of Agriculture.*

[FR Doc. 2026-07093 Filed 4-10-26; 8:45 am]

BILLING CODE 3410-KR-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID: FSA-2026-0199]

Information Collection Request; Inventory Property Management

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comment.

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 a revision of a currently approved collection associated with the Inventory Property Management. In the Inventory Property Management, the collected information is used to evaluate applicant requests to purchase inventory property, determine eligibility to lease or purchase inventory property, and ensure the payment of the lease amount or purchase amount associated with the acquisition of inventory property.

DATES: We will consider comments that we receive by June 12, 2026.

ADDRESSES: We invite you to submit comments on the notice. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://regulations.gov> and search for docket ID FSA-2026-0199. Follow the online instructions for submitting comments.

- *Mail:* Lee Nault, Loan Servicing and Properties Management Division, USDA, FSA, Farm Loan Programs, 1400 Independence Ave. SW, Mail Stop 0523 Washington, DC 20250-00523.

Comments will be available for inspection online at <http://>

www.regulations.gov. Copies of the information collection may be requested by contacting Lee Nault (see **FOR FURTHER INFORMATION CONTACT** below).

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.

FOR FURTHER INFORMATION CONTACT: Lee Nault, (202) 720-6834; email:

Lee.Nault@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION:

Description of Information Collection Request

Title: Inventory Property Management.

OMB Number: 0560-0234.

Expiration Date of Approval: July 31, 2026.

Type of Request: Revision.

Abstract: FSA is requesting comments from all interested individuals and organizations on a revision of a currently approved information collection request associated with Inventory Property Management. FSA's Farm Loan Programs provide supervised credit in the form of loans to family farmers to purchase real estate and equipment and finance agricultural production. Inventory Property Management, as specified in 7 CFR part 767, provides the requirements for the management, lease, and sale of security property acquired by FSA. FSA may take title to real estate as part of dealing with a problem loan either by entering a winning bid to protect its interest at a foreclosure sale, or by accepting a deed of conveyance in lieu of foreclosure. Information collections established in the regulation are necessary for FSA to determine an applicant's eligibility to lease or purchase inventory property and to ensure the applicant's ability to make

payment on the lease or purchase amount. The number of responses and total burden hours increase in this request. While the overall number of inventory properties on hand has decreased by 20.45 percent since the last collection, the increase in responses and burden hours is due to a higher estimated number of inventory properties that will be sold annually. The projected number of properties to be sold has been revised upward because FSA has resumed the sale of inventory properties and due to the anticipated rate at which new properties are acquired.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Respondent Burden:

Public reporting burden for this collection of information is estimated to average 0.56 hours per response.

Type of Respondents: Individuals or households, business or other for-profit, and farms.

Estimated Annual Number of Respondents: 202.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 202.

Estimated Average Time per Responses: 0.56 hours.

Estimated Total Annual Burden on Respondents: 113 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(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.

All responses to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

William Beam,

Administrator, Farm Service Agency.

[FR Doc. 2026-07100 Filed 4-10-26; 8:45 am]

BILLING CODE 3411-E2-P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: State Forest Law and Policy

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on a new information collection request (ICR), State Forest Law and Policy (OMB 0596-NEW). This collection will obtain information regarding how States and U.S. Territories regulate and incentivize forest management on private and State lands.

DATES: Comments must be received in writing on or before June 12, 2026 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Gregory Frey, Research Forester, USDA Forest Service, Southern Research Station, 3041 East Cornwallis Rd., Durham, NC 27713. Comments also may be submitted by email to gregory.e.frey@usda.gov. Please include "Comments re: 'State Forest Law and Policy'" in the subject line.

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address

will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to gregory.e.frey@usda.gov.

FOR FURTHER INFORMATION CONTACT:

Gregory Frey, Research Forester, USDA Forest Service, by phone at 919-549-4025, or by email at gregory.e.frey@usda.gov.

Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service then provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Title: State Forest Law and Policy.

OMB Number: 0596-NEW.

Expiration Date of Approval: N/A.

Type of Request: New information collection.

Abstract: This new collection will address how States and U.S. Territories regulate and incentivize forest management on private and state lands. Congress has authorized the USDA Forest Service to collect and generate information including about how laws, public policies, regulations, and other factors influence and affect the use, ownership, and management of forest lands.

Legislation authorizing the development and dissemination of such science-based information includes the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Agricultural Research, Extension, and Teaching Policy Act of 1977, and the Forest and Rangeland Renewable Resources Research Act of 1978. Further, the Cooperative Forestry Assistance Act of 1978 directs the Forest Service to coordinate and work cooperatively with state agencies, and such coordination and cooperation may be facilitated by having a greater understanding of the state-level policy context for forestry. Also, the Foundations for Evidence-Based Policymaking Act of 2018 directs agencies to evaluate how agency programs, policies, and regulations contribute to agency missions, and understanding state-level programs,

policies, and regulations can provide information relevant to this goal. The information proposed to be collected under this approval contributes to USDA Forest Service mission and strategic goals, including to sustain our Nation's forests.

Information will be collected on various topics, organized as "Modules," which are planned to be re-collected on multi-year cycles.

Modules include:

(1) State financial incentive payment programs for private forests

(2) State regulation of forest management and timber harvests, including Forest Practices Acts, rules, and voluntary practices

(3) Resilient forest management policies and practices

We will collect information from knowledgeable individuals at State or Territory forestry or natural resource agencies; State or Territory tax agencies; State or Territory Cooperative Extension services, or related organizations. These individuals will be identified through contacts and correspondence with State or Territory Foresters or their representatives.

This information is valuable for a number of purposes:

(1) As a basic dataset for researchers to evaluate the impact of policies.

(2) For forest users and managers to understand what is allowed in their State or Territory and opportunities to enhance productivity, economic returns, and provision of ecosystem services.

(3) For policymakers to understand how policies and programs differ from State to State.

(4) For the USDA Forest Service to generate a baseline of information and periodic monitoring updates for national and international reporting considerations.

Notably, some of this information is available by reading State statutory and administrative codes (laws and regulations). However, interpretation and implementation can be variable by State or laws and regulations can interact, which can lead people to misconstrue how forests are regulated, incentivized, and managed in practice. Knowledgeable in-state contacts can help verify researchers' interpretations or help identify and synthesize information from multiple sources in the state. Furthermore, considerations other than the law itself can impact how policies and programs work in practice. For example, a program might be authorized by a law but not funded through appropriations. Finally, various important aspects may not be easily discernible from the legislative, administrative, or other written record.

For example, State agencies may have records of how many landowners or land acres enroll in a certain program but not otherwise publish this information. In any event, this information is maintained in highly variable formats from State to State, and our information request will help standardize in a single place. In situations where we are easily able to generate preliminary information for each state, we will attempt to provide this information to respondents for verification in order to reduce the time burden, rather than ask them to provide new information.

Affected Public: State and Territory government officials.

Estimate of Burden per Response: The time required to respond will be variable, depending on whether or not the State or Territory keeps information in a format that is easily translatable to the ICR. Time required could range from 0.5 to 8 hours per individual involved. We anticipate an average of 3 hours per individual.

Estimated Annual Number of Respondents: 150 (one to four individuals in each State or Territory).

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 450 hours.

Comment is Invited: Comment is invited on: (1) whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including 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 summarized and included in the submission request for Office of Management and Budget approval.

Valerie Hipkins,

Deputy Chief, Research and Development.

[FR Doc. 2026-07103 Filed 4-10-26; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; National Woodland Owner Survey

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension (with revisions) of a currently approved information collection, *National Woodland Owner Survey*.

DATES: Comments must be received in writing on or before June 12, 2026 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Brett Butler of the USDA Forest Service, 160 Holdsworth Way, Amherst, MA 01003. Comments also may be submitted via facsimile to 608-231-9592 or by email to: brett.butler2@usda.gov.

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at 160 Holdsworth Way, Room 201, Amherst, MA 01003 during normal business hours. Visitors are encouraged to call ahead to 413-545-1387 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to brett.butler2@usda.gov.

FOR FURTHER INFORMATION CONTACT:

Brett Butler, Northern Research Station, 413-545-1387. Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service then

provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Title: National Woodland Owner Survey.

OMB Number: 0596-0078.

Expiration Date of Approval: 05/31/2027.

Type of Request: Extension with Revision of a currently approved information collection.

Abstract: There are an estimated 704 million acres of forestland across the United States, excluding interior Alaska. Of this forestland, over half is owned by millions of corporations, families, individuals, and other private groups with the remaining managed by over a thousand different Federal, State, and local government agencies and Tribal organizations. Understanding the attitudes and behaviors of the owners and managers of the forestland is critical for understanding the current and future state of the Nation's forests. The Forest Service conducts the National Woodland Owner Survey (NWOS) to increase our understanding of:

- Who owns and manages the forestland of the United States,
- Why they own/manage it,
- How they have used it, and
- How they intend to use it.

This information is used by policy analysts, foresters, educators, and researchers to facilitate the planning and implementation of forest policies and programs and to provide landowners, managers, and the general public a better understanding of the social context of forests.

The Forest Service's direction and authority to conduct the NWOS is from the Forest and Rangeland Renewable Resources Planning Act of 1974 (Pub. L. 93-378; 16 U.S.C. 1600, *et seq.*, as amended), and the Forest and Rangeland Renewable Resources Research Act of 1978 (Pub. L. 93-378; 16 U.S.C. 1642, *et seq.*, as amended). These acts assign responsibility for the inventory and assessment of forest and related renewable resources to the Forest Service. Additionally, the importance of an ownership survey in this inventory and assessment process is highlighted in the 2014 Farm Bill, the Agricultural Research, Extension, and Education Reform Act of 1998, and the recommendations of the Second Blue Ribbon Panel on the Forest Inventory and Analysis program (FIA).

Previous iterations of the NWOS were conducted in 1978, 1993, 2002-2006, 2011-2013, 2017-2018, 2019-2023, and the current 2024-2028 cycle. Approval for the current iteration of the NWOS

expires on May 31, 2027. In order to complete the current NWOS cycle, which ends in 2028, we are seeking approval of this renewal. If this renewal is approved, the NWOS will be permitted to complete the 2024–2028 cycle.

Information will be collected related to:

- The characteristics of the land holdings,
- Attitudes and perceptions of the owners and managers,
- Resource uses and management activities, and
- Where applicable, landowner demographics.

Separate survey instruments were developed for different target populations, including family forest ownerships, corporate and other private forest ownerships, private forest ownerships on selected U.S. affiliated protectorates and territories, residential urban landowners, Tribal lands, and public lands. The proposed information collection includes survey questions and specialized science modules that address the high-priority administration subject areas of wildfire, timber, and recreation, including stand-alone science modules on wildfire and timber and multiple base survey questions related to each topic. For the families and individuals, the dominant ownership group of forestland owners, a subset of ownerships will be sent survey instruments addressing the following topics, in addition to the core questions from the base survey instrument:

- Afforestation
- Agroforestry
- Carbon
- Cross-boundary cooperation
- Decision making
- Energy
- Heirs' properties
- Invasive species
- Land transfer
- Landowner values
- Sense of place
- Timber
- Wellbeing
- Wildfire

The NWOS provides widely cited benchmarks for the number, extent, and characteristics of owners of forestland in the United States. These results have been used to assess the sustainability of forest resources at national, regional, and state levels; to implement and assess forest-land owner assistance programs; and to answer a variety of questions with topics ranging from fragmentation to the economics of timber production. This is the only consistent, long-term effort to collect in-depth information about owners of

forestland at the national scale. It provides longitudinal data to track ownership trends and allows for comparisons across regions of the country.

The respondents will be a statistically selected group of individuals, families, partnerships, corporations, nonprofit organizations and other private groups, Tribal groups, and public landowners that own forestland in the United States. A well distributed, random set of sampling points has been established across the country. At each point, remotely sensed data, such as aerial photographs, will be used to identify forested points. For the forested points, public records will be used to identify the owners of record (such as the names and addresses of the landowners who will be contacted). The target number of respondents for the base NWOS implementation is 50 per state (or substate) per year, which, given a historic response rate of 29 percent, means an estimated 2,650 ownership responses annually. Additionally, with science modules, state intensifications, urban, islands, Tribal, corporate and public instruments, our estimated number of respondents and non-respondents (who incur some burden from outreach materials), is 19,447 ownerships per year and 3,090 burden hours.

The NWOS will utilize a mixed-mode survey technique involving cognitive interviews, focus groups, self-administered survey, and telephone interviews. Cognitive interviews will be used to test specific questions and explore new topics or populations of interest. Focus groups will be used to provide more in-depth understanding of the responses and to explore new areas of inquiry.

The implementation of the self-administered survey, which will represent the majority of the responses, will involve up to four contacts. First, a pre-notice postcard will be sent to all potential respondents describing this information collection and why the information is being collected. Second, a survey with a cover letter and pre-paid return envelope will be sent to the potential respondents. The cover letter will reiterate the purpose of this information collection and provide the respondents with all legally required information. Third, a reminder will be mailed to thank the respondents and encourage the non-respondents to reply. Those who have yet to respond will be sent a new survey, cover letter, and pre-paid return envelope. Telephone interviews will be used for follow-up with non-respondents. For all owners, the primary survey instrument will be

paper forms with the option for completing the survey electronically online. We will use Participatory Action Research (PAR) and cognitive interviews to explore tribal land ownerships.

Forest Service researchers will coordinate all components of this information collection. Forest Service personnel with assistance provided by cooperators at the Family Forest Research Center located at the University of Massachusetts Amherst will conduct the mail portion of the survey, cognitive interviews, focus groups, and telephone follow-ups. Data will be compiled and edited by Forest Service and Family Forest Research Center personnel. Forest Service researchers and cooperators will analyze the collected data. National, regional, and state-level results will be publicly available and electronically distributed.

This information collection will generate scientifically based, statistically reliable, up-to-date information about the owners of forestland in the United States. The results of these efforts will provide more reliable information on this important and dynamic segment of the United States population, thus facilitating more complete assessments of the country's forestland resources and improved planning and implementation of forestry programs on state, regional, and national levels.

Affected Public: Individuals and households and the Private Sector (Businesses and Non-Profit Organizations, and State, Local, or Tribal Government).

Estimate of Burden per Response: 25 minutes for families, individuals, and corporate ownerships; 60–120 minutes for Tribal entities, and 15 minutes for public entities. 1–3 minutes for pre-notice letters, cover letters, and thank you letters.

Estimated Annual Number of Respondents: 19,447.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3,090 hours.

Comment is Invited: Comment is invited on: (1) whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the

burden of the collection of information on respondents, including 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 summarized and included in the submission request for Office of Management and Budget approval.

Valerie Hipkins,

Acting Deputy Chief, Research and Development.

[FR Doc. 2026–07102 Filed 4–10–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–844, C–489–819]

Steel Concrete Reinforcing Bar From Mexico and the Republic of Türkiye: Continuation of Antidumping Duty Order and Countervailing Duty Order

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

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on steel concrete reinforcing bar (rebar) from Mexico and the Republic of Türkiye (Türkiye) would likely lead to the continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable April 8, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2178.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2014, Commerce published in the **Federal Register** the AD and CVD orders on rebar from Mexico and Türkiye.¹ On September 2,

2025, the ITC instituted,² and Commerce initiated,³ the second sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.⁴

On April 8, 2026, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The merchandise subject to these *Orders* is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010.

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size or grade) and without being subject to an elongation

6, 2014) and *Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order*, 79 FR 65926 (November 6, 2014) (collectively, *Orders*).

² See *Steel Concrete Reinforcing Bar from Mexico and Turkey: Institution of Five-Year Reviews*, 90 FR 42440 (September 2, 2025).

³ See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 42388 (September 2, 2025).

⁴ See *Steel Concrete Reinforcing Bar from Mexico: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 91 FR 12135 (March 12, 2026), and accompanying Issues and Decision Memorandum (IDM); and *Steel Concrete Reinforcing Bar from the Republic of Türkiye: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order*, 91 FR 12581 (March 16, 2026), and accompanying IDM.

⁵ See *Steel Concrete Reinforcing Bar from Mexico and Turkey*, 91 FR 17814 (April 8, 2026) (*ITC Final Determination*).

test. HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be April 8, 2026.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act, and published in accordance with section 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: April 8, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–07109 Filed 4–10–26; 8:45 am]

BILLING CODE 3510–DS–P

⁶ See *ITC Final Determination*.

¹ See *Steel Concrete Reinforcing Bar from Mexico: Antidumping Duty Order*, 79 FR 65925 (November

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-941, C-570-942]

Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order

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

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) order and countervailing duty (CVD) order on kitchen appliance shelving and racks (kitchen racks) from the People's Republic of China (China) would likely lead to the continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable April 1, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2178.

SUPPLEMENTARY INFORMATION:**Background**

On September 14, 2009, Commerce published in the *Federal Register* the AD and CVD orders on kitchen racks from China.¹ On September 2, 2025, the ITC instituted,² and Commerce initiated,³ the third sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and

therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.⁴

On April 1, 2026, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The scope of these *Orders* consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens ("certain kitchen appliance shelving and racks" or "the merchandise under order"). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions: —shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or —baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or —side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or —subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch.

The merchandise under the *Orders* may be coated or uncoated and may be formed and/or welded. Excluded from the scope of these *Orders* is shelving in which the support surface is glass.

The merchandise subject to these *Orders* is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000, 8516.90.8010, 7321.90.6040, 8514.90.4000, and 8419.90.9520.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

The scope of these *Orders* consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens ("certain kitchen appliance shelving and racks" or "the merchandise under order"). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions: —shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or —baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or —side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or —subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The subject merchandise is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under the *Orders* may be coated or uncoated and may be formed and/or welded. Excluded from the scope of these *Orders* is shelving in which the support surface is glass.

The merchandise subject to these *Orders* is currently classifiable in the

¹ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009); see also *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Countervailing Duty Order*, 74 FR 46973 (September 14, 2009) (collectively, *Orders*).

² See *Kitchen Appliance Shelving and Racks From China: Institution of a Five-Year Review*, 90 FR 42443 (September 2, 2025).

³ See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 42388 (September 2, 2025).

⁴ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order*, 91 FR 12141 (March 12, 2026); see also *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order*, 91 FR 12145 (March 12, 2026).

⁵ See *Kitchen Appliance Shelving and Racks from China*, 91 FR 16228 (April 1, 2026) (*ITC Final Determination*).

Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000, 8516.90.8010, 7321.90.6040, 8514.90.4000, and 8419.90.9520. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be April 1, 2026.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: April 8, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–07107 Filed 4–10–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–821]

Prestressed Concrete Steel Wire Strand From Spain: Final Results of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Global Special Steel Products S.A.U. (d.b.a. Trenzas y Cables de Acero PSC, S.L.) (TYCSA) made sales of subject merchandise at less than normal value during the period of review (POR) June 1, 2023, through May 31, 2024.

DATES: Applicable April 13, 2026.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatryan, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2025, Commerce published the *Preliminary Results* in the **Federal Register** and invited comments from interested parties.¹ On November 3, 2025, TYCSA submitted a case brief.² On December 29, 2025, Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corp. (collectively, the petitioners) submitted a rebuttal brief.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ Additionally, due to a backlog of documents that were

electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ Accordingly, the deadline for these final results is now April 7, 2026.

For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁶ Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order⁷

The products subject to the *Order* are prestressed concrete steel wire strand from Spain. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Changes Since the Preliminary Results

Based on comments received from interested parties regarding our *Preliminary Results*, we made certain changes to the weighted-average dumping margin calculations for TYCSA.⁸

Final Results of Review

For these final results, we determine the following weighted-average dumping margin exists for the period June 1, 2023, through May 30, 2024:

⁵ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ See Memorandum, "Prestressed Concrete Steel Wire Strand from Spain: Issues and Decision Memorandum for the Final Results of the 2023–2024 Antidumping Administrative Review," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See *Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine: Antidumping Duty Orders*, 86 FR 29998 (June 4, 2021) (*Order*).

⁸ For a full description of these changes, see Issues and Decision Memorandum.

⁶ See *ITC Final Determination*.

¹ See *Prestressed Concrete Steel Wire Strand from Spain: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024*, 90 FR 48030 (October 3, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See TYCSA's Letter, "Case Brief," dated November 3, 2025.

³ See Petitioners' Letter, "Petitioners' Rebuttal Brief on TyCSA," dated December 29, 2025.

⁴ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

Producer or exporter	Weighted-average dumping margin (percent)
Global Special Steel Products S.A.U. (d.b.a. Trenzas y Cables de Acero PSC, S.L.)	11.32

Disclosure

Commerce intends to disclose the calculations performed for TYCSA in connection with these final results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

We calculated importer-specific *ad valorem* antidumping duty assessment rates on the basis of the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by TYCSA for which it did not know that the merchandise it sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the less-than-fair-value (LTFV) investigation (*i.e.*, 14.75 percent),⁹ if there is no rate for the intermediate company(ies) involved in the transaction.¹⁰

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this

review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be equal to the weighted-average dumping margin that is established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the producer is, the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 14.75 percent, the all-others rate established in the LTFV investigation.¹¹ These deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1), 751(a)(3), and 777(i)(1) of the Act.

Dated: April 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Duplication of Mixed Currency Movement Expenses for U.S. Sales
 - Comment 2: Freight Revenue Capping
- VI. Recommendation

[FR Doc. 2026-07057 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-200]

Methylene Diphenyl Diisocyanate From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that methylene diphenyl diisocyanate (MDI) from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2024, through December 31, 2024.

DATES: Applicable April 13, 2026.

FOR FURTHER INFORMATION CONTACT: Christopher Maciuba or Kayden Jenson, AD/CVD Operations, Office II, Enforcement and Compliance,

⁹ See Order, 86 FR at 30000.

¹⁰ For a full description of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹¹ See Order, 86 FR at 30000.

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0413 or (202) 482-0967, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 2025, Commerce published in the **Federal Register** its preliminary affirmative determination in the LTFV investigation of MDI from China, in which it also postponed the final determination until January 29, 2026.¹ We invited interested parties to comment on the *Preliminary Determination*.²

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁴ Accordingly, the deadline for this final determination is now April 7, 2026.

For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product subject to this investigation is MDI from China. For a

complete description of the scope of this investigation, see Appendix I.

Scope Comments

In the Preliminary Scope Memorandum, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope-specific case briefs or other written comments. No interested party submitted scope comments; therefore, we have made no modifications to the scope language as it appeared in the *Initiation Notice*. See Appendix I.

Verification

The mandatory respondent in this investigation is not eligible for a separate rate and is therefore part of the China-wide entity. Because Commerce has found the China-wide entity to be uncooperative, Commerce did not conduct verification.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

Changes Since the Preliminary Determination

Since the *Preliminary Determination*, we have made certain changes to the estimated weighted-average dumping margin for the China-wide entity and the estimated weighted-average dumping margin for non-examined companies that are eligible for a separate rate. For a discussion of these changes, see the Issues and Decision Memorandum.

China-Wide Entity and Use of Adverse Facts Available (AFA)

Consistent with the *Preliminary Determination*,⁶ Commerce continues to find that, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), the use of facts otherwise available, with adverse inferences, is warranted in determining the estimated weighted-average dumping margin for the China-wide entity.⁷ For this final determination, there is no new information on the record that would cause us to reconsider

our preliminary decision to apply AFA to the China-wide entity. Further, we calculated a new dumping margin based on the lowest U.S. price, factors of production (FOPs) information and certain surrogate values (SVs) from the Petition, and other SVs submitted to the record in this investigation.⁸ Therefore, as AFA, we assigned the estimated weighted-average dumping margin of 159.04 percent to the China-wide entity.⁹

Separate Rate

We preliminarily granted a separate rate to certain companies that we did not select for individual examination. No party commented on Commerce's preliminary decision to grant a separate rate to Covestro Polymers (China) Co., Ltd. or Shandong Mingko Co., Ltd.; therefore, we continue to find that these two companies are eligible for a separate rate. Additionally, we preliminarily determined that the mandatory respondent, Wanhua,¹⁰ is not eligible for a separate rate. Wanhua commented on Commerce's preliminary decision not to grant it a separate rate.¹¹ We have addressed this comment in the Issues and Decision Memorandum. We have made no changes to Commerce's preliminary separate rate eligibility determinations for the non-selected

⁸ See Memorandum, "China-Wide Rate and Separate Rate for Final Determination," dated April 7, 2026; see also Issues and Decision Memorandum at Comment 5.

⁹ See Issues and Decision Memorandum at Comment 5.

¹⁰ Commerce determined that Wanhua Chemical (Singapore) Pte. Ltd. (Wanhua Singapore), Wanhua Chemical (Ningbo) Trading Co., Ltd. (Wanhua Ningbo), Wanhua Chemical (Fujian) Co., Ltd. (Wanhua Fujian), Wanhua Chemical (Fujian) Isocyanate Co., Ltd., (Wanhua Isocyanate), Wanhua Chemical (Guangdong) Co., Ltd. (Wanhua Guangdong), and Wanhua Chemical (Yantai) Trading Co., Ltd. (Wanhua Yantai), Wanhua Chemical Group Co., Ltd. (Wanhua Group), and Wanhua Chemical (Ningbo) Co., Ltd. (Ningbo Company)) should be collapsed and treated as a single entity (Wanhua). See Memorandum, "Preliminary Determination of Affiliation and Single Entity Determination for Wanhua Chemical (Singapore) Pte. Ltd., and Wanhua Chemical (Ningbo) Trading Co., Ltd.," dated August 19, 2025; and *Preliminary Determination PDM* at 4–5. We received no comments on this preliminary determination; thus, we continue to treat Wanhua Chemical (Singapore) Pte. Ltd. (Wanhua Singapore), Wanhua Chemical (Ningbo) Trading Co., Ltd. (Wanhua Ningbo), Wanhua Chemical (Fujian) Co., Ltd. (Wanhua Fujian), Wanhua Chemical (Fujian) Isocyanate Co., Ltd., (Wanhua Isocyanate), Wanhua Chemical (Guangdong) Co., Ltd. (Wanhua Guangdong), and Wanhua Chemical (Yantai) Trading Co., Ltd. (Wanhua Yantai), Wanhua Chemical Group Co., Ltd. (Wanhua Group), and Wanhua Chemical (Ningbo) Co., Ltd. (Ningbo Company)) as a single entity (Wanhua) for purposes of this final determination.

¹¹ See *Preliminary Determination* at "Separate Rates" section.

¹ See *Methylene Diphenyl Diisocyanate from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value, Postponement of Final Determination, and Extension of Provisional Measures*, 90 FR 44629 (September 16, 2025), and accompanying Preliminary Decision Memorandum.

² *Id.*

³ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁴ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Methylene Diphenyl Diisocyanate from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See *Methylene Diphenyl Diisocyanate from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value, Postponement of Final Determination, and Extension of Provisional Measures*, 90 FR 44629 (September 16, 2025) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) at 9–11.

⁷ *Id.*

separate rate companies for this final determination.

As the basis for the estimated weighted-average dumping margin for the non-examined producer/exporter combinations eligible for a separate rate in this final determination, we calculated new dumping margins based on all of the U.S. prices, FOPs and

certain SVs included in the Petition along with other SVs submitted to the record of this investigation.¹²

Combination Rates

Consistent with the *Preliminary Determination*, Commerce determined combination rates for the companies eligible for a separate rate.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist for the period July 1, 2024, through December 31, 2024:

Producer	Exporter	Estimated weighted-average dumping margin (percent)
Covestro Polymers (China) Co., Ltd.	Covestro Polymers (China) Co., Ltd.	85.11
Wanhua Chemical Group Co., Ltd.	Shandong Mingko Co., Ltd.	85.11
China-Wide Entity		* 159.04

* This rate is based on facts available with adverse inferences.

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination to interested parties within five days after public announcement of the final determination or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I of this notice, that were entered, or withdrawn from warehouse, for consumption on or after September 16, 2025, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 733(d) of the Act, we subsequently instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after March 16, 2026, but to continue the suspension of liquidation of all entries of subject merchandise on or before March 15, 2025.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue an antidumping duty (AD) order, reinstate the suspension of liquidation, and require a cash deposit for estimated antidumping duties, in accordance with section 736(a) of the

Act, effective on the publication date of the ITC's final affirmative determination in the **Federal Register**. The cash deposit required will be, as follows: (1) for the exporter and producer combinations listed in the table above, the cash deposit rate will be the rate identified in this final determination; (2) for all combinations of Chinese exporters and producers of subject merchandise, the cash deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of subject merchandise that have not received their own separate rate above, the cash deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all cash deposits for estimated antidumping duties will be refunded and the suspension of liquidation will be lifted.

ITC Notification

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of MDI no later than 45

days after this final determination. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated, all cash deposits will be refunded or canceled, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instructions by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Suspension of Liquidation" section above.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This final determination is issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

¹² See Memorandum, "China-Wide Rate and Separate Rate for Final Determination," dated April 7, 2026.

Dated: April 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is methylene diphenyl diisocyanate (MDI), which is an aromatic polyisocyanate material whose composition includes two or more isocyanate groups (*i.e.*, functional group containing a nitrogen atom, a carbon atom, and an oxygen atom bonded together (-NCO)) attached to one or more benzene rings (*i.e.*, flat, symmetrical molecule made up of six carbon atoms arranged in a hexagonal ring and has the chemical formula C_6H_6) that are joined by methylene bridges (*i.e.*, a carbon atom bound to two hydrogen atoms (-CH₂-) and connected by single bonds to two other distinct atoms in the rest of the molecule). MDI is commonly called Polymeric, Monomeric, or Modified MDI and may also be referred to under other names, including Methylene bisphenyl isocyanate, 4,4'-Diphenylmethane diisocyanate, Methylene di-p-phenylene ester of isocyanic acid, Methylene bis(4-phenyl isocyanate), and polymethylene polyphenylene isocyanate. MDI is normally associated with Chemical Abstracts Service (CAS) registry numbers 9016-87-9, 101-68-8, 5873-54-1, 2536-05-2, 1689576-89-3, 25686-28-6, 26447-40-5, and 39310-05-9, but several others are also used.

MDI ranges in physical form from low viscosity liquids to solids. MDI is covered by the scope of this investigation irrespective of whether it has gone through a distillation process and regardless of acid content, reactivity, functionality, freeze stability, physical form, viscosity, grade, purity, molecular weight, or packaging.

MDI may contain additives, such as catalysts, solvents, plasticizers, antioxidants, fire retardants, colorants, pigments, diluents, thickeners, fillers, softeners, toughening agents. The scope does not include mixtures of MDI with other materials, when the combined MDI component comprises less than 40 percent of the total weight of the mixture.

MDI may be partially reacted with itself, polyol, or polyamines, and retain MDI component that has not fully chemically reacted so as to convert it into a different product no longer containing isocyanate groups. These products are known as homopolymer, uretonimine MDI, carbodiimide MDI, or prepolymers. The scope does not include partially reacted MDI when its NCO content is less than 10 weight percentage.

For MDI that enter as part of a system with separately packaged resin consisting mostly of a chemical compound that has an OH reactive group, including polyol, only the MDI portion of the system is included in the scope. The scope does not include any separately packaged polyol that would not fall within the scope if entered on its own.

The scope includes merchandise matching the above description that has been

processed in a third country, including by commingling, diluting, introducing or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country.

The scope also includes MDI that is commingled or blended with MDI from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2929.10.8010 and 3909.31.0000. Subject merchandise may also be entered under subheadings 3824.99.2600, 3909.50.1000, 3909.50.2000, 3909.50.5000, 3824.99.2900, 3506.91.5000, 3911.90.4500, 3921.13.5000, and 3920.99.5000. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes since the Preliminary Determination
- V. Discussion of the Issues
 - Comment 1: Wanhua's Separate Rate Eligibility
 - Comment 2: Whether Commerce is Required to Verify Wanhua's Questionnaire Responses
 - Comment 3: Whether Commerce Should Select Shandong Mingko as a Mandatory or Voluntary Respondent
 - Comment 4: Selection of Surrogate Country
 - Comment 5: Whether Commerce Should Recalculate the Estimated Weighted-Average Dumping Margin for the China-Wide Entity
- VI. Recommendation

[FR Doc. 2026-07055 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration [A-583-837]

Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Final Results and Rescission of Antidumping Duty Administrative Review, In Part; 2023-2024

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

DATES: Applicable April 13, 2026.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that polyethylene terephthalate film, sheet, and strip (PET film) from Taiwan was sold in the United States at less than

normal value during the period of review (POR) July 1, 2023, through June 30, 2024.

FOR FURTHER INFORMATION CONTACT:

Charles DeFilippo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3797.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2025, Commerce published in the **Federal Register** the *Preliminary Results* and invited interested parties to comment.¹ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ Accordingly, the deadline for these final results is now April 7, 2026.

For a summary of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁴ The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order⁵

The merchandise subject to the *Order* is PET film from Taiwan. For a full

¹ See *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Preliminary Results and Preliminary Intent To Rescind, In Part, of Antidumping Duty Administrative Review; 2023-2024*, 90 FR 48041 (October 3, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

³ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Results of the 2023-2024 Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and*

Continued

description of the scope, *see the Preliminary Results* PDM.

Analysis of Comments Received

All issues raised in case and rebuttal briefs by interested parties in this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached as an appendix to this notice. Based on our review of the record and comments received from interested parties, we did not make any changes from the *Preliminary Results*.

Final Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty (AD) order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.⁶ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.⁷ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the review period.⁸

On October 3, 2025, we published our intent to rescind, in part, this administrative review for Shinkong Materials Technology Corporation (SMTC) and Shinkong Synthetic Fiber Corporation (SSFC), which we consider to be a single entity (SMTC/SSFC).⁹ The POR entry totals reflected in the Attachment of the CBP Data Memorandum reflected no POR entries of subject merchandise from these companies.¹⁰ We invited parties to comment, and we received no comments. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review for SMTC/SSFC, in accordance with 19 CFR 351.213(d)(3).

Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44174 (July 1, 2002) (*Order*).

⁶ See, e.g., *Diocetyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); *see also Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁷ See 19 CFR 351.212(b)(1).

⁸ See 19 CFR 351.213(d)(3).

⁹ See *Preliminary Results*, 90 FR at 48041.

¹⁰ See Memorandum, "Release of Customs Entry Data," dated September 27, 2024.

Final Results of Review

As a result of this review, we determine the following weighted-average dumping margins exist for the period July 1, 2023, through June 30, 2024:

Producer/Exporter	Weighted-average dumping margin (percent)
Nan Ya Plastics Corporation	1.06

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to interested parties within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is *de minimis* (i.e., less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Nan Ya Plastics Corporation for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate established in the less-than-fair-value (LTFV) investigation of 2.40 percent *ad valorem*,¹¹ if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a

timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for the company subject to this review will be equal to the weighted-average dumping margin established in these final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.40 percent, the all-others rate established in the LTFV investigation for this proceeding.¹² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary

¹¹ See *Order*.

¹² See *Order*.

information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which subject to sanction.

Notification to Interested Parties

These final results are being issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: April 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the *Order*
 - IV. Discussion of the Issues
 - Comment: Whether to Apply the Average-to-Transaction (A-to-T) Methodology
 - V. Recommendation
- [FR Doc. 2026-07054 Filed 4-10-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that 11 companies under review did not establish their entitlement to a separate rate and are part of the People's Republic of China (China)-wide entity. Commerce is also rescinding this review with respect to 18 companies/company groupings under review. The POR is January 1, 2024, through December 31, 2024. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable April 13, 2026.

FOR FURTHER INFORMATION CONTACT: Krisha Hill, AD/CVD Operations, Office

IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; Telephone: (202) 482-4037.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on wooden bedroom furniture from China covering the instant POR.¹ After receiving review requests, on February 21, 2025, Commerce initiated this review with respect to 29 companies/company groupings.² In May 2025, interested parties timely withdrew all requests to review 16 companies/company groupings for which Commerce initiated this review.³ Of the remaining 13 companies under review, only three companies responded to Commerce's quantity and value questionnaire (each company reported no shipments of subject merchandise during the POR).⁴

On September 30, 2025, Commerce extended the deadline for issuing the preliminary results of this review by 119 days.⁵ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in

administrative proceedings by 47 days.⁶ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁷ The deadline for the preliminary results of this review is now April 8, 2026.

Scope of the Order

The product covered by the *Order* is wooden bedroom furniture from China, subject to certain exceptions. For a complete description of the scope of the *Order*, see Appendix I.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213. Additionally, given that the analysis underlying these preliminary results of review are contained herein, no decision memoranda accompany this **Federal Register** notice.

Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all the parties that requested the review withdraw their review requests within 90 days of the date that Commerce published the notice of initiation of the requested review in the **Federal Register**. Interested parties timely withdrew all review requests for 16 companies/company groupings for which Commerce initiated this review.⁸ Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the *Order* with respect to the companies/company groupings listed in Appendix II.

Jiangsu Yuexing Furniture Group Co., Ltd., Eurosa (Kunshan) Co., Ltd., and Eurosa Furniture Co., (PTE) Ltd. reported that they made no exports, sales, shipments, or entries of subject merchandise during the POR.⁹ Information that we obtained from U.S. Customs and Border Protection (CBP)

⁶ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁷ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁸ See Petitioners Withdrawal Letters; see also Maria Yee's Withdrawal Letter.

⁹ See Jiangsu Yuexing's No Shipments Letter; see also Eurosa's No Shipments Letter.

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 71 (January 2, 2025); see also *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China*, 70 FR 329 (January 4, 2005) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 10048, 10057 (February 21, 2025) (*Initiation Notice*).

³ See American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc.'s (Petitioners) Letters, "Partial Withdrawal Of Request For Administrative Review," dated May 8, 2025, "Partial Withdrawal Of Request For Administrative Review," dated May 15, 2025; and "Partial Withdrawal Of Request For Administrative Review," dated May 21, 2025 (Petitioners Withdrawal Letters); see also Guangzhou Maria Yee Furnishings Ltd., PYLA HK Limited and Maria Yee, Inc.'s (Maria Yee) Letter, "Maria Yee's Withdrawal of Request for Review," dated May 9, 2025 (Maria Yee's Withdrawal Letter).

⁴ See Jiangsu Yuexing Furniture Group Co., Ltd.'s Letter, "Statement of No Shipments during the POR 2024" dated March 4, 2025 (Jiangsu Yuexing's No Shipments Letter); see also Eurosa (Kunshan) Co., Ltd. and Eurosa Furniture Co., (PTE) Ltd.'s Letter, "Statement of No Shipments during the POR 2024" dated March 5, 2025 (Eurosa's No Shipments Letter); Shenzhen New Fudu Furniture Co., Ltd.'s Letter, "Statement of No Shipments during the POR 2024" dated March 5, 2025 (Shenzhen New Fudu's No Shipments Letter).

⁵ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated September 30, 2025.

supports their claims.¹⁰ Pursuant to 19 CFR 351.213(d)(3), Commerce may rescind an administrative review if it concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be.¹¹ Therefore, On March 5, 2026, Commerce notified interested parties of its intent to rescind this administrative review with respect to Jiangsu Yuexing Furniture Group Co., Ltd., Eurosa (Kunshan) Co., Ltd., and Eurosa Furniture Co., (PTE) Ltd.¹² No parties commented on Commerce's intent to rescind this review with respect to these companies. Therefore, in the absence of any suspended entries of subject merchandise during the POR from Jiangsu Yuexing Furniture Group Co., Ltd., Eurosa (Kunshan) Co., Ltd., and Eurosa Furniture Co., (PTE) Ltd., Commerce is rescinding this administrative review with respect to these companies, in accordance with 19 CFR 351.213(d)(3).

Separate Rates

In the *Initiation Notice*, Commerce informed parties that all firms for which a non-market economy (NME) review was initiated that wished to qualify for separate rate status must complete, as appropriate, either a separate rate application or a separate rate certification.¹³ While Shenzhen New Fudu Furniture Co., Ltd. claimed that it "made no exports, sales, shipments, or entries of any subject merchandise . . . during the . . . period of review,"¹⁴ record evidence contradicts this claim, namely CBP entry data.¹⁵ Shenzhen New Fudu Furniture Co., Ltd. did not provide a separate rate application or certification. Therefore, Commerce preliminarily determines that Shenzhen New Fudu Furniture Co., Ltd. failed to demonstrate that it qualifies for separate rate status, and thus, it is part of the China-wide entity.

Additionally, the following companies under review also failed to file a separate rate application or

separate rate certification: (1) Fine Furniture (Shanghai) Ltd.; (2) Jiangmen Kinwai Furniture Decoration Co., Ltd.; (3) Jiangmen Kinwai International Furniture Co., Ltd.; (4) Nathan International Ltd., Nathan Rattan Factory; (5) Rui Feng Woodwork Co., Ltd., Rui Feng Lumber Development Co., Ltd., Dorbest Ltd.; (6) Shenyang Shining Dongxing Furniture Co., Ltd.; (7) Wanvog Furniture (Kunshan) Co., Ltd.; (8) Yeh Brothers World Trade Inc.; (9) Zhangzhou Guohui Industrial & Trade Co. Ltd.; and (10) Zhongshan Fookyik Furniture Co., Ltd. Therefore, Commerce preliminarily determines that these companies failed to demonstrate that they qualify for separate rate status, and thus, they are part of the China-wide entity.

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.¹⁶ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review and the weighted-average dumping margin assigned to the China-wide entity is not subject to change as a result of this administrative review.

Disclosure

Normally, Commerce discloses to parties to the proceeding the calculations that it performed in connection with a preliminary results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary results of review in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce did not calculate any dumping margins in this review, there are no calculations to disclose.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication

of this notice in the **Federal Register**.¹⁷ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁸ Interested parties who submit case briefs or rebuttal briefs in this review must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁹

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.²⁰ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²¹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals associated with the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues the party intends to discuss at the hearing. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice in the **Federal Register**.

¹⁷ See 19 CFR 351.309(c)(1)(ii).

¹⁸ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

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

²⁰ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²¹ See *APO and Service Final Rule*.

¹⁰ See Memorandum, "No Shipment Inquiry for Various Companies During the Period 01/01/2024 through 12/31/2024 (POR)," dated March 5, 2026 (Results of No Shipments Inquiry).

¹¹ See, e.g., *Diocetyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4157 (January 24, 2023).

¹² See Memorandum, "Notice of Intent to Rescind Review, In Part," dated March 5, 2026.

¹³ See *Initiation Notice*, 90 FR 10048, 10050.

¹⁴ See Shenzhen New Fudu's No Shipments Letter.

¹⁵ See Results of No Shipments Inquiry.

¹⁶ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

Assessment Rate

Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.²² We will instruct CBP to liquidate POR entries of subject merchandise exported by the companies/company groupings for which we rescinded the review at the cash deposit rate required at the time of entry or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). We will issue this instruction to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

If we do not alter these preliminary results of review, we will instruct CBP to liquidate entries of subject merchandise exported by the companies that failed to qualify for a separate rate at the China-wide entity rate. We will issue this instruction to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the final results of this administrative review in the **Federal Register** as provided by section 751(a)(2)(C) of the Act: (1) for any previously investigated or reviewed China or non-China exporter that has a separate rate, the cash deposit rate will continue to be the exporter's existing cash deposit rate; (2) for all China exporters of subject merchandise that do not have a separate rate, including those exporters that failed to establish their separate rate eligibility in this review, the cash deposit rate will be equal to the dumping margin assigned to the China-wide entity, which is 216.01 percent; and (3) for all non-China exporters of subject merchandise that do not have a separate rate, the cash deposit rate will be equal to the dumping margin applicable to the China exporter(s) that supplied that non-China exporter. These cash deposit requirements, when

imposed, shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in case and rebuttal briefs, within 120 days of publication of these preliminary results of review in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: April 8, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The product covered by the *Order* is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden

canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,²³ highboys,²⁴ lowboys,²⁵ chests of drawers,²⁶ chests,²⁷ door chests,²⁸ chiffoniers,²⁹ hutches,³⁰ and armoires;³¹ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the *Order* excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts

²³ A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

²⁴ A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

²⁵ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

²⁶ A chest of drawers is typically a case containing drawers for storing clothing.

²⁷ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

²⁸ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

²⁹ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

³⁰ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

³¹ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audiovisual entertainment systems.

²² See 19 CFR 351.212(b)(1).

predominate;³² (9) jewelry armories;³³ (10) cheval mirrors;³⁴ (11) certain metal parts;³⁵ (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds;³⁶ (14) toyboxes;³⁷ (15) certain enclosable wall

³² As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

³³ Any armoire, cabinet, or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door or one front door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Memorandum, "Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China," dated August 31, 2004; see also *Wooden Bedroom Furniture from the People's Republic of China: Final Changed Circumstances Review, and Determination to Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

³⁴ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floorstanding, hinged base. Additionally, the scope of the Order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, i.e., a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See *Wooden Bedroom Furniture from the People's Republic of China: Final Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 948 (January 9, 2007).

³⁵ Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form.

³⁶ Upholstered beds that are completely upholstered, i.e., containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 7013 (February 14, 2007).

³⁷ To be excluded the toy box must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials

bed units;³⁸ (16) certain shoe cabinets;³⁹ and (17) certain bed bases.⁴⁰

Imports of subject merchandise are classified under subheadings 9403.50.9041, 9403.50.9042 and 9403.50.9045 of the Harmonized Tariff Schedule of the United States (HTSUS) as "wooden . . . beds" and under subheading 9403.50.9080 of the HTSUS as "other . . . wooden furniture of a kind used in the bedroom." In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may be entered under subheadings 9403.91.0005 or 9403.91.0080 of the HTSUS. Subject merchandise may also be entered under subheading 9403.91.0010. Further, framed glass mirrors may be entered under subheading 7009.92.1090 or 7009.92.5095 of the HTSUS as "glass mirrors . . . framed." The Order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our

("ASTM") standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum, "Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box," dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the Order apply to the box itself rather than the lid.

³⁸ Excluded from the scope are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) a metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready to assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the Order.

³⁹ Excluded from the scope are certain shoe cabinets 31.5–33.5 inches wide by 15.5–17.5 inches deep by 34.5–36.5 inches high. They are designed strictly to store shoes, which are intended to be aligned in rows perpendicular to the wall along which the cabinet is positioned. Shoe cabinets do not have drawers, rods, or other indicia for the storage of clothing other than shoes. The cabinets are not designed, manufactured, or offered for sale in coordinated groups or sets and are made substantially of wood, have two to four shelves inside them, and are covered by doors. The doors often have blinds that are designed to allow air circulation and release of bad odors. The doors themselves may be made of wood or glass. The depth of the shelves does not exceed 14 inches. Each shoe cabinet has doors, adjustable shelving, and ventilation holes.

⁴⁰ Excluded from the scope are certain bed bases consisting of: (1) a wooden box frame; (2) three wooden cross beams and one perpendicular center wooden support beam; and (3) wooden slats over the beams. These bed bases are constructed without inner springs and/or coils and do not include a headboard, footboard, side rails, or mattress. The bed bases are imported unassembled.

written description of the scope of this Order is dispositive.

Appendix II

Companies Rescinded From Review

Companies/Company Groupings For Which

All Review Requests Were Withdrawn

1. Dongguan Chengcheng Furniture Co., Ltd.
2. Golden Well International (HK), Ltd.
3. Guangzhou Maria Yee Furnishings Ltd., Pyla HK Ltd., Maria Yee, Inc.
4. Jiangsu Xiangsheng Bedtime Furniture Co., Ltd.
5. Nanhai Jiantai Woodwork Co. Ltd., Fortune Glory Industrial, Ltd. (HK Ltd.)
6. Perfect Line Furniture Co., Ltd.
7. PuTian JingGong Furniture Co., Ltd.
8. Shenzhen Jiafa High Grade Furniture Co., Ltd., Golden Lion International Trading Ltd.
9. Shenzhen Wonderful Furniture Co., Ltd.
10. Tradewinds Furniture Ltd. (successor-in-interest to Nanhai Jiantai Woodwork Co.), Fortune Glory Industrial Ltd. (H.K. Ltd.)⁴¹
11. Wuxi Yushea Furniture Co., Ltd.
12. Zhangjiagang Daye Hotel Furniture Co. Ltd.
13. Zhangzhou XMB Furniture Product Co., Ltd.
14. Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.
15. Zhongshan Golden King Furniture Industrial Co., Ltd.
16. Zhoushan For-Strong Wood Co., Ltd.

Companies With No Suspended Entries

1. Jiangsu Yuexing Furniture Group Co., Ltd.
2. Eurosa (Kunshan) Co., Ltd.
3. Eurosa Furniture Co., (PTE) Ltd.

[FR Doc. 2026–07114 Filed 4–10–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF682]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an exempted fishing permit (EFP) application contains all of the required

⁴¹ Commerce considers the withdrawal of the request to review these two collapsed entities to also apply to the request to review Nanhai Jiantai Woodwork Co. Ltd., Fortune Glory Industrial, Ltd. (HK Ltd.).

information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by the Gulf of Maine Research Institute (GMRI). Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

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

ADDRESSES: You may submit written comments by email: nmfs.gar.efp@noaa.gov. Include in the subject line “Using electronic jigging machines as a novel, ultra-low impact, gear type to collect catch data and biological samples in the Gulf of Maine (GOM) Groundfish Closure Areas.” All comments received are a part of the public record and may be posted for public viewing 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 “anonymous” as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Elise Scholl, Fishery Management Specialist, elise.scholl@noaa.gov, (978) 281–9189.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR citation	Regulation	Need for exemption
50 CFR 648.83(a)	Minimum fish size requirements for Northeast multispecies.	To retain sublegal size pollock and Atlantic cod for sampling.
50 CFR 648.81(a)(1)	Cashes Ledge Closure area except the Ammen Rock Habitat Management Area.	To allow commercial fishing activity in the specified closed areas.
50 CFR 648.81(e)(1)	Western GOM Closure Area	

TABLE 2—PROJECT SUMMARY

Project title	Using electronic jigging machines as a novel, ultra-low impact, gear type to collect catch data and biological samples in the GOM Groundfish Closure Areas.
Project start	05/01/2026.
Project end	04/30/2027.
Project objectives.	Continue a cooperative research project which will provide data on the distribution, size and sex composition, feeding habits, and physical characteristics of pollock in data-limited areas in the GOM. Opportunistically collect Atlantic cod biological data.
Project location.	Statistical areas 513, 514, and 515.
Number of vessels.	1.
Number of trips.	20.
Trip duration (days).	2.
Total number of days.	40.
Gear type(s) ...	Hook, Rod and Reel.
Number of tows or sets.	4.
Duration of tows or sets.	3 hours.

Project Narrative

GMRI is requesting an EFP to continue a pilot cooperative research study aimed at collecting data on the distribution, size and sex composition, feeding habits, and physical

characteristics of pollock in data limited areas within the GOM. The vessel would also opportunistically collect non-lethal cod biological samples in support of research being conducted by New Hampshire Sea Grant. This will be a continuance of the study conducted under DA24–074.

The 2025 study aimed to complete 30 total trips and sample at least 250 pollock. However, due to funding, scheduling, and weather difficulties, only 11 trips were completed with 21 pollock sampled. Additional funding has been secured through The Nature Conservancy, which will allow four more trips for the 2025 groundfish fishing season with an anticipated 40 more pollock samples. These funds also allow GMRI to compensate the F/V Lady Rebecca for the sample pollock, eliminating the need for dockside sampling for the remainder of the 2025 season and the 2026 season.

The project aims to collect data through haul-level catch and effort data collection, biological sampling, and discard monitoring via electronic monitoring (EM). The participating vessel is authorized to use EM through its Sector Operations Plan. The project aims to fulfill specific research needs of GMRI’s pollock study and address research priorities identified in the 2022 pollock stock assessment, including research on geographic distribution by size. The exemptions would allow sampling inside the Western GOM Closure Area and Cashes Ledge Closure Area in order to evaluate pollock size distributions and reproductive dynamics inside and outside the closed

areas. The exemption to the minimum pollock size would allow the vessel to retain sublegal size pollock to collect catch data and biological samples.

Sampling would be conducted with hook jigging gear, including auto-jigs and rod and reel. The applicant claims that the auto-jigging machines are low-impact due to this method being associated with minimal bycatch and discards exhibiting relatively high survivability. There would be up to four auto-jigs, and two rod and reels deployed at a time. The applicant estimates there would be 20 total trips with two to four fishing efforts per trip. GMRI researchers are seeking at least 150 tagged pollock. Fishing effort may occur in both closed and open areas on the same trip.

To help expand the temporal and spatial scope of the samples, every 10th pollock would be separated from the commercial catch, and tagged with a color-coded zip tie differentiating its harvest location. Sub-legal sized pollock selected for biological sampling would be measured according to the Vessel Electronic Monitoring Plan (VMP) prior to storing in slush ice while sub-legal sized pollock not selected for biological sampling would be live discarded according to the VMP. All other species of sublegal size fish would be live discarded according to the VMP. Once returned to port, sampled fish will be frozen for bulk collection by GMRI scientific staff. Data collected from each sampled fish will include length, weight, sex, stomach contents, and a photo to document physical characteristics. Haul level catch,

discard, and fishing effort data collection would be completed using the Northeast Fisheries Science Center Fisheries Logbook Data Recording Software. No sub-legal fish will be sold.

The project would also provide 50 cod fin clips from inside the GOM Closed Area to expand the geographic range of an ongoing cod DNA study being conducted by Dr. Linas Kenter, New Hampshire Sea Grant. Samples would consist of a fingernail size fin clip from the top of the tail, presumably posing no threat to the survivability of the released cod. The project seeks to sample cod catch, including undersized cod.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 8, 2026.

David R. Blankinship,

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

[FR Doc. 2026-07053 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[0648-XF618]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notification; availability of a proposed evaluation and pending determination for public comment.

SUMMARY: Notice is hereby given that NMFS has received a Hatchery and Genetics Management Plan (HGMP) for seven hatchery programs rearing and releasing fall Chinook salmon, spring Chinook salmon, fall chum salmon, sockeye salmon, coho salmon and steelhead in the Skokomish River basin. The plan describes a hatchery program operated by Washington Department of Fish and Wildlife (WDFW) in collaboration with the Skokomish

Indian Tribe as co-managers, and Tacoma Power Utility. This document serves to notify the public of the availability and opportunity to comment on a Proposed Evaluation and Pending Determination Documents (PEPD) on implementing the proposed hatchery program and enforcing the associated HGMP, which concludes that it will not appreciably reduce the likelihood of survival and recovery nor modify or destroy critical habitat of Hood Canal-Strait of Juan de Fuca summer chum salmon, Puget Sound Chinook salmon, or Puget Sound steelhead. This notice was previously posted for public comment, but since the PEPD document was not available during the comment period, we are reopening the related documents for public comment with this notice.

DATES: Comments must be received no later than 5 p.m. Pacific time on May 13, 2026. Comments received after this date may not be considered.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2026-0925, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA-NMFS-2026-0925 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

Also:

- The HGMP is available online at: Hatchery production, HGMPs and the ESA | Washington Department of Fish & Wildlife. <https://wdfw.wa.gov/fishing/management/hatcheries/hgmp#comment>.

- The PEPD is available online at: <https://www.fisheries.noaa.gov/action/seven-hatchery-programs-skokomish-basin>

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, 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).

FOR FURTHER INFORMATION CONTACT:

Chante Davis at (503)321-2307 or chante.davis@noaa.gov.

SUPPLEMENTARY INFORMATION:

Endangered Species Act (ESA)-Listed Species Covered in This Notice

- Hood Canal-Strait of Juan de Fuca summer chum salmon (*Oncorhynchus keta*): threatened, naturally and artificially propagated;
- Puget Sound Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally and artificially propagated;
- Puget Sound Steelhead (*Oncorhynchus mykiss*): threatened, naturally and artificially propagated.

Background

The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The ESA prohibits the take of endangered salmonids and, pursuant to ESA section 4(d), ESA regulations can be extended to prohibit the take of threatened salmonids. However, NMFS may make exceptions to the take prohibitions for hatchery programs that are approved by NMFS under the limits on the prohibitions outlined in 50 CFR 223.203(b). The operators, WDFW collaborating with tribal co-manager Skokomish Indian Tribe, have submitted an HGMP to NMFS pursuant to NMFS' Limit 6 of the 4(d) Rule of the ESA for hatchery activities in the Skokomish River basin, Washington. The PEPD is NMFS' initial determination for how the HGMP addresses the criteria in 50 CFR 223.203(b)(5).

The hatchery program under review is designed to contribute to the reintroduction and recovery of Chinook salmon, sockeye salmon and steelhead in the Skokomish River basin. These fish contribute to the stability of Pacific salmon fish stocks in order to maintain sustainable U.S. fisheries and strengthen the national seafood supply chain. The hatchery programs are intended to contribute to fulfilling federal trust responsibilities toward Tribes with rights guaranteed through treaties, as affirmed in *United States v. Washington* (1974), by contributing to the recovery of ESA-listed salmon. Additionally, the programs are intended to contribute to the survival and recovery of Puget Sound Chinook Salmon and Puget Sound Steelhead, provide information on exploitation rates, and support returns of coho salmon, Chinook salmon, and sockeye salmon to the Skokomish River basin.

Classification

Under section 4 of the ESA, the Secretary of Commerce is required to

adopt such regulations as deemed necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule regulations (50 CFR 223.203(b)) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the regulations do not apply to actions undertaken in compliance with a plan developed jointly by a state and a tribe and determined by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*

Dated: April 7, 2026.

Jennifer Leigh Quan,

*Regional Administrator, West Coast Region,
National Marine Fisheries Service.*

[FR Doc. 2026-07034 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF628]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by Massachusetts Division of Marine Fisheries (MA DMF). Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested

parties the opportunity to comment on applications for proposed EFPs.

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

ADDRESSES: You may submit written comments by email: nmfs.gar.efp@noaa.gov. Include in the subject line “MA DMF 2026 Ventless Trap Survey”. All comments received are a part of the public record and may be posted for public viewing without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “anonymous” as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Elise Scholl, Fishery Management Specialist, elise.scholl@noaa.gov, 978-281-9189.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR Citation	Regulation	Need for exemption
50 CFR 697.21(c)(1) and (2)	Gear specification requirements for Lobster Management Areas 1 and 2.	To allow for the use of traps without escape vents.
50 CFR 697.19(a) and (b)	Trap limit requirements for Areas 1 and 2	To allow for trap limits to be exceeded for up to 360 traps in Area 1 and 96 traps for Area 2.
50 CFR 697.19(j)	Trap tag requirements	To allow for alternatively tagged traps.
50 CFR 697.20(a)(2), 697.20(b)(2), 697.20(a)(3), and 697.20(b)(3).	Minimum and maximum carapace length requirements for Areas 1 and 2.	To allow sub-legal and over-sized lobsters to be landed for research purposes.
50 CFR 697.20(g)(1) and (3)	V-notch possession requirement for Areas 1 and 2.	To allow landing of female lobsters for research purposes.
50 CFR 697.20(d)(1) and (3)	Berried female possession requirements	To allow landing of egg-bearing female lobsters for research purposes.
50 CFR 697.20(h)(1)	Minimum carapace width requirements	To allow sub-legal Jonah crabs to be landed for research purposes.
50 CFR 697.20(h)(2)(i) and (ii)	Berried female possession requirement	To allow landing of egg-bearing female Jonah crabs for research purposes.

TABLE 2—PROJECT SUMMARY

Project title	2026 Ventless Trap Survey.
Project start	5/01/2026.
Project end	10/31/2026.
Project objectives	To provide fishery-independent data on lobster and Jonah crab growth and abundance within Massachusetts State waters.
Project location	Statistical Areas 514 and 538.
Number of vessels	5.
Number of trips	70.
Trip duration (days)	1.
Total number of days	70.
Gear type(s)	Lobster Traps.
Number of tows or sets	16 per trip.
Duration of tows or sets	3-day soak.

Project Narrative

The purpose of this survey is to provide fishery-independent data on lobster and Jonah crab growth and abundance within Massachusetts State waters of statistical areas 514 and 538. MA DMF funds this lobster abundance survey through its commercial and recreational lobster license fees. This survey has occurred annually since 2006.

Each trawl consists of six traps, with three vented and three ventless traps alternated along the string. The escape vents in vented traps are standardized throughout all survey areas to one rectangular vent in the parlor, size 1¹⁵/₁₆" x 5³/₄" (Lobster Conservation Management Area 1 regulation sized vent). All gear would be Atlantic Large Whale Take Reduction Plan compliant and meet Federal protected-species related regulations. Survey traps would be tagged as "MA DMF Research Traps". At least one MA DMF scientist would be on board for the sampling trips. MA DMF personnel would not be on board when traps are baited and deployed. Exemptions would not substantively change vessel operations. Catch is expected to be low compared with the biomass and, aside from samples retained for research purposes, returned to sea alive. All catch during sampling trips would be retained temporarily to collect biological data. MA DMF staff may collect lobster and/or Jonah crab, including undersized, oversized, v-notched, and egg-bearing lobsters. Collected samples would be used for research projects on growth and maturity. No catch from the experimental traps would be landed for sale.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 8, 2026.

David R. Blankinship,

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

[FR Doc. 2026-07086 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XF690]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic and South Atlantic Fishery Management Councils will hold a public meeting of a Joint Blueline Tilefish Subcommittee.

DATES: The meeting will be held on Friday, May 1, 2026, from 9 a.m. until 12 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar. Connection information, agenda items, and any additional information will be posted at <https://www.mafmc.org> prior to the meeting.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic and South Atlantic Fishery Management Councils agreed to establish a Joint Blueline Tilefish Subcommittee to help determine the jurisdictional allocation of the blueline tilefish acceptable biological catch (ABC) north of Cape Hatteras, North Carolina. During this kick-off meeting the joint subcommittee will meet to consider the various data sources available to evaluate potential jurisdictional allocations and review previous methods used to determine other regional allocations. The discussions from this initial meeting will serve as a foundation for future discussions, informing the subcommittee's allocation recommendations at subsequent meetings.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526-5251, at least 5 days prior to the meeting date.

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

Dated: April 9, 2026.

Key Israel Marquez,

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

[FR Doc. 2026-07106 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XF420]

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for Identification of Aquaculture Opportunity Areas in Alaska State Waters and Conduct Public Scoping Meetings

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

ACTION: Notice of intent (NOI) to prepare a programmatic environmental impact statement; request for comments.

SUMMARY: In compliance with Section 7 of the Executive Order, "Promoting American Seafood Competitiveness and Economic Growth" (May 7, 2020), NMFS intends to prepare a programmatic environmental impact statement (PEIS) to evaluate alternatives for identifying Aquaculture Opportunity Areas (AOAs) in state waters within the Gulf of Alaska. The PEIS will be prepared in accordance with the requirements of the National Environmental Policy Act (NEPA), NOAA Administrative Order 216-6A, and NOAA's Companion Manual. NMFS is the lead agency for this PEIS and the Alaska Department of Natural Resources, Alaska Department of Fish & Game, Alaska Department of Environmental Conservation, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency will act as cooperating agencies. The PEIS will evaluate the potential impacts of identifying one or more AOAs in state waters of the Gulf of Alaska and will discuss the potential impacts of siting aquaculture facilities in those locations. The proposed action is a planning initiative and does not propose any aquaculture facilities or authorize any permits. This notice initiates the public scoping process for the PEIS.

DATES: The 45-day public scoping period begins on April 13, 2026, and finishes on May 28, 2026. NMFS will

consider all written comments received by May 28, 2026.

Two virtual public scoping meetings will be held on:

- Wednesday, April 22, 2026, 2 p.m.–3 p.m. Alaska Time
- Tuesday, April 28, 2026, 9 a.m.–10 a.m. Alaska Time

ADDRESSES: You may submit written comments on this NOI identified by “NOAA–NMFS–2023–0113” using the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA–NMFS–2023–0113 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Jon Kurland, Regional Administrator for Alaska Region, NMFS, Attn: Records Office, P.O. Box 21668, Juneau, AK 99802–1668.

Verbal comments will be accepted during the two virtual public scoping meetings described under **DATES**. Information on how to join these meetings is found at: <https://www.fisheries.noaa.gov/alaska/aquaculture/identifying-aquaculture-opportunity-areas-alaska>. The virtual meetings are open to the public and free to attend. Comments sent or provided 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 public comments received are a part of the public record and may be posted for public viewing on <http://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).

FOR FURTHER INFORMATION CONTACT: Alicia Bishop, Alaska Regional Aquaculture Coordinator, telephone: 323–366–5659; or email: alicia.bishop@noaa.gov.

SUPPLEMENTARY INFORMATION:

Purpose and Need for the Proposed Action

The purpose of the proposed action is to apply a science-based approach to identify AOAs in state waters of the Gulf of Alaska. The goal of identifying AOAs is to promote American seafood competitiveness, food security, economic growth, and to support the

development of domestic commercial aquaculture, consistent with sustaining and conserving marine resources and applicable laws, regulations, and policies. The proposed action is needed to meet the directives of E.O. 13921 to address the increasing demand for seafood, facilitate long-term planning for marine aquaculture development, and address interests and concerns regarding marine aquaculture siting.

Preliminary Description of Proposed Action and Alternatives

The proposed action is to identify one or more locations (referred to as AOAs) in state waters of the Gulf of Alaska that may be suitable for multiple future aquaculture projects. The PEIS will evaluate the potential impacts of identifying AOAs and of siting aquaculture projects in those locations. The PEIS will not consider finfish aquaculture, as it is prohibited by state law.

An AOA is a geographic area that has been evaluated to determine its potential suitability for commercial aquaculture. NMFS will use a combination of scientific analysis and public engagement to identify AOAs that may be environmentally, socially, and economically suitable for commercial aquaculture. AOAs identified through this process may be considered suitable for aquaculture for shellfish, seaweed, or a combination of these species. AOAs may only be identified by NMFS after completion of a final PEIS and issuance of a final decision document. The proposed action is a long-term planning effort. It is not a regulatory or permitting action, and does not propose to authorize any specific aquaculture-related activities or individual aquaculture projects.

Background Information

E.O. 13921 directs NOAA to lead a multi-agency planning effort to identify AOAs. NMFS published a request for information (RFI) on October 23, 2020, identifying the first two geographic areas for AOAs and asking the public to comment on what areas should be considered for future AOAs (85 FR 67519). NMFS received letters of support from individuals, industry, Alaska Native organizations, Alaska state agencies, and the Alaska state legislature to begin the AOA process in Alaska state waters. NMFS announced the beginning of the process to identify AOAs in Alaska state waters in partnership with the State of Alaska on June 1, 2023. On October 19, 2023, NMFS published a second RFI, specific to Alaska, and held public listening sessions on the identification of marine

spatial planning study areas, and requested data and analyses relevant to the AOA identification process in Alaska state waters (88 FR 72046). NOAA’s National Centers for Coastal Ocean Science (NCCOS) in collaboration with NMFS and the State of Alaska, initiated a marine spatial planning process to aid agency decision makers in identifying areas that may be suitable as AOA options. NMFS, NCCOS, and the State of Alaska hosted a two-part workshop series to collect information for a marine spatial planning study (see August 14, 2024, workshop summary report at <https://www.fisheries.noaa.gov/s3/2024-08/Alaska-AOA-Spatial-Planning-Workshops-Report.pdf>). On April 23, 2025, NMFS published a Notice of Availability (90 FR 17051) requesting public comment on the preliminary results of a marine spatial planning study developed by NCCOS in collaboration with NMFS and the State of Alaska, including the identification of draft AOA options in Alaska (<https://cdn.coastalscience.noaa.gov/page-attachments/MSP/Report-for-Notice-for-Comment-for-Alaska-Draft-Final.pdf>). The notice requested public comment on the 97 draft AOA options that had high suitability scores relative to the planning goals to identify up to 4,000 acres (1,519 hectares) per study area for subtidal shellfish and seaweed aquaculture, and up to 100 acres (40.5 hectares) per study area for intertidal shellfish aquaculture. NMFS hosted two, public virtual listening sessions to explain the draft AOA options and receive comments.

NMFS, NCCOS, and the State of Alaska received new information through the public comment process which allowed NCCOS to make improvements to the spatial planning model before finalizing the results. NCCOS updated the model-based comments that highlighted missing, authoritative spatial data sources and information that supported improvements to scoring and data processing for existing data sets. NCCOS used this information to develop the Alaska Atlas—a technical document providing peer-reviewed geospatial planning information. NCCOS published the NOAA Technical Memorandum, An Aquaculture Opportunity Area Atlas for the Gulf of Alaska (Atlas), on February 19, 2026 (NOS NCCOS 365. Beaufort, NC. 986 pp.; available online at: <https://repository.library.noaa.gov/view/noaa/72440>). The Atlas used a precision-siting, scoring, and ranking process to narrow the suitability analysis results to

77 final AOA options that have high potential suitability for an AOA across the 10 marine spatial planning study areas depicted in Figure 3.64 on page 10 of the Atlas. The final AOA options represented a 26 percent reduction in total acreage from the draft option areas in the marine spatial planning study. The 77 final AOA options resulted in 13,031 acres (5,273 hectares) identified across Southeast, Southcentral, and Southwest Alaska study areas. Southeast has a total of 53 AOA options (44 subtidal and 9 intertidal) depicted in Figure 3.131 on page 298 of the Atlas. Southcentral has a total of 9 AOA options (all subtidal) depicted in Figure 3.93 on page 238 of the Atlas. Southwest has a total of 15 AOA options (13 subtidal and 2 intertidal) depicted in Figure 3.65 on page 184 of the Atlas.

The Atlas may be used as one source of information to assist the agency in identifying one or more AOAs within state waters of the Gulf of Alaska. The Atlas does not reflect any agency decision to identify specific AOAs or foreclose the agency's ability to evaluate alternate locations for consideration as AOAs.

Alternative Framework

The PEIS will analyze and discuss the potential impacts of a no action alternative (Alternative 1) and the potential impacts of identifying one or more AOAs in Alaska state waters (Alternative 2). In Alternative 1 (No Action), NMFS would not identify AOAs in Alaska state waters. Aquaculture projects could still be sited in state waters of Alaska. The no action alternative will serve as the analytic basis (*i.e.*, baseline) for comparison of the proposed action. In Alternative 2, NMFS would consider identifying AOAs in one or more of the 77 AOA options described in the Atlas. NMFS will determine the number and scope of alternatives and areas explored and select the locations to be evaluated in the draft PEIS based on the comments received during this public scoping period.

Summary of Expected Effects

NEPA requires federal agencies to evaluate the potential environmental effects of any major planned Federal action, and to promote public awareness of the potential impacts, by preparing a detailed analysis of proposed actions that would significantly affect the quality of the human environment. The PEIS will evaluate the potential impacts of identifying one or more AOAs in state waters of the Gulf of Alaska and will discuss the potential impacts of siting aquaculture in those locations, should

projects be proposed, as informed by the Atlas and best available information. The proposed action is a planning effort and does not propose to authorize or permit any specific aquaculture-related activities or individual aquaculture projects, however the PEIS will discuss the potential impacts of siting aquaculture in those locations as directed by E.O. 13921. The PEIS will consider potential impacts on the administrative environment, physical and biological environment, socioeconomic environment, and the cultural/historic environment.

The PEIS will consider potential stressors associated with shellfish and seaweed aquaculture or a combination of these types of farms, including stressors associated with pre-construction, construction, operations and maintenance, and decommissioning of shellfish and seaweed aquaculture. Biological and physical resources potentially considered may include: affected ecosystems, fish, invertebrates, aquatic vegetation, seaweeds, mammals, birds, and special status habitat. Potential impacts to these resources that may be considered include: potential physical disturbance and strike stressors, acoustic and light disturbance, ecosystem stressors, effluents and emissions, entanglement stressors, ingestion stressors, disease and pathogen transmission, and other changes in water quality. Socioeconomic resources potentially considered may include: existing aquaculture, fishing, seafood markets and regional food systems, transportation and navigation, aesthetic quality, tourism and recreation, community/regional infrastructure and ports/working waterfronts, energy and public services, and public health and safety. Cultural and historic resources potentially considered may include: Alaska Native resources, cultural practices, and archaeological resources.

Wherever possible and supported by the best available science, the PEIS may highlight potential mitigation strategies to address impacts associated with aquaculture siting and development in the proposed AOAs.

Anticipated Permits and Other Authorizations

The proposed action to identify AOAs is a planning process. Neither the final PEIS nor final decision document will authorize any specific aquaculture activities or approve any individual aquaculture projects. Any future aquaculture operations within an AOA would be required to comply with all applicable Federal and state laws and regulations, including but not limited to

the Clean Water Act, Rivers and Harbors Act, Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Marine Mammal Protection Act, and National Historic Preservation Act. Compliance may include Endangered Species Act, Essential Fish Habitat (Magnuson-Stevens Act), and National Historic Preservation Act consultations, and Marine Mammal Protection Act authorizations. Additional NEPA analysis may be required as part of permitting and authorization processes. Cooperating agencies may adopt the PEIS and utilize the information to support their permitting decisions.

Schedule for the Decision-Making Process

The PEIS is expected to take two years from the date of this notice. The draft PEIS is tentatively scheduled for publication in winter 2027. The draft PEIS will be released for public comment, and all public comments will be considered before issuing a final PEIS. The final PEIS and associated final decision is tentatively scheduled for publication in spring 2028.

Public Scoping Process and Meetings

This notice initiates the scoping process, which guides the scope of environmental issues, potential impacts, alternatives, and potential mitigation measures that could be included in the draft PEIS. Comments will be accepted until May 28, 2026. Interested parties may submit public comments according to the instructions described in the **DATES** and **ADDRESSES** sections above.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

NMFS requests data, comments, views, information, analysis, alternatives, or suggestions on the proposed action from the public; affected Federal, State, Tribal, and local governments, agencies, and offices; the scientific community; non-governmental organizations; industry; and all other interested parties. Specifically, we are soliciting information and feedback on:

1. The scope of the NEPA analysis, including the range of reasonable alternatives and the number of and locations of areas that should be considered and evaluated.

2. The types of aquaculture (*e.g.*, species or gear) that are ecologically, economically, and socially of interest or concern, and could be analyzed in a proposed AOA location.

3. Information related to technologies and strategies that could increase opportunities for or mitigate risks of aquaculture development.

4. Potential impacts to biological, physical, and ecological resources, including potential interactions with marine mammals and other species protected by the Marine Mammal Protection Act or Endangered Species Act, Essential Fish Habitat designated under the Magnuson-Stevens Act, and other sensitive, managed, or protected habitats in the Gulf of Alaska.

5. Potential impacts to the social, economic, and cultural environment, including but not limited to fishing sectors and industries, and Alaska Native and coastal communities.

6. Current or planned activities in or near the areas highlighted in this notice and their possible impacts on aquaculture development or the impact of aquaculture developments on those activities.

7. Other topics relevant to the Proposed Action and its impacts on the human environment.

Authority: E.O. 13921.

Dated: April 7, 2026.

Danielle Blacklock,
Director, Office of Aquaculture, National Marine Fisheries Service.

[FR Doc. 2026-07063 Filed 4-10-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF653]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is conducting five scoping meetings to solicit comments on ideas for fishery improvements in the monkfish and skate fisheries. The scoping is designed to identify the challenges the monkfish and skate fishing sectors are grappling with and to identify possible management measures for the Council to address those challenges in the future. In June of 2026, the Council will consider comments received during scoping and in December of 2026, the Council will consider these comments when developing 2027 Council work priorities. Given monkfish is jointly

managed with the Mid-Atlantic Council, during its August 2026 meeting, the Mid-Atlantic Council will receive the same scoping summary and an update on any outcomes of the June 2026 New England Council meeting.

DATES: These meetings and webinar will be held between Monday, April 27, 2026 and Monday, May 11, 2026. See supplementary information for more details on specific dates and times.

ADDRESSES:

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O’Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

1. Monday, April 27, 2026 from 4–6:30 p.m. The Westin Portland Harborview Hotel, 157 High Street, Portland, ME 04101.

2. Wednesday, April 29, 2026 from 4–6:30 p.m. Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740.

3. Thursday, April 30, 2026 from 4–6:30 p.m. Cornell Cooperative Extension Suffolk County, 423 Griffing Avenue, Riverhead, NY 11901.

4. Thursday, May 5, 2026 from 4–6:30 p.m. Stafford Township, 260 East Bay Avenue, Manahawkin, NJ 08050.

5. Monday, May 11, 2026 from 4–6:30 p.m. via webinar. Please register for the webinar here: <https://nefmc-org.zoom.us/j/9876543210>.

Public comments: The public comment deadline is on Monday, May 18, 2026. Mail to Cate O’Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Mill #2, Newburyport, MA 01950. Mark the outside of the envelope “Monkfish and Skate Fishery Improvements Scoping Comments.” Comments may also be sent via email to comments@nefmc.org—with “Monkfish and Skate Fishery Improvements Scoping Comments” in the subject line.

Agenda

Council staff will brief the public on prior monkfish and skate priority ideas, recent monkfish catch per unit effort (CPUE) project review information, and the Monkfish and Skate 2025 Joint Management Summary Report before receiving comments. Staff seek feedback on gear-type dynamics, skate fishery components, and the differences between the northern and southern monkfish components to help the Council articulate and prioritize management objectives for both

fisheries in the future. These meetings will begin promptly at the time indicated above. If all attendees who wish to do so have provided their comments prior to the end time indicated, the meeting may conclude early. To the extent possible, the Council may extend scoping meetings beyond the end time indicated above to accommodate all attendees who wish to speak.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council’s intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O’Keefe, Executive Director, at 978–465–0492, at least 5 days prior to the meeting date.

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

Dated: April 9, 2026.

Key Israel Marquez,

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

[FR Doc. 2026–07110 Filed 4–10–26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF678]

Marine Mammals; File No. 29014

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Erich Jarvis, Ph.D., The Rockefeller University 1230 York Ave, New York, NY 10065, has applied in due form for a permit to import marine mammal parts for scientific research.

DATES: Written comments must be received on or before May 13, 2026.

ADDRESSES: The application and related documents are available for review by selecting “Records Open for Public Comment” from the “Features” box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 29014 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. 29014 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:

Jennifer Skidmore or Shasta McClenahan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to import parts from up to 10 individuals annually from the following species: Indo-Pacific humpback dolphin (*Sousa chinensis*), the Indo-Pacific bottlenose dolphin (*Tursiops aduncus*), and the Short-beaked common dolphin (*Delphinus delphis*). These samples were collected by collaborators at the Universiti Malaya in Malaysia under other authorizations. Parts would be genetically sequenced to resolve a critical taxonomic uncertainty regarding coastal dolphin populations in the Straits of Malacca. The permit would be valid for 5 years from the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 9, 2026.

Shannon Bettridge,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–07094 Filed 4–10–26; 8:45 am]

BILLING CODE 3510–22–P

COUNCIL ON ENVIRONMENTAL QUALITY

Implementation of the National Environmental Policy Act Guidance

AGENCY: Council on Environmental Quality.

ACTION: Notice of Availability.

SUMMARY: On April 9, 2026, the Council on Environmental Quality (CEQ) issued a memorandum to the heads of Federal departments and agencies (agencies) on establishing, revising, adopting, and applying categorical exclusions under the National Environmental Policy Act (NEPA). This guidance replaces initial guidance on the same subject issued on December 6, 2010.

DATES: This guidance was issued on April 9, 2026.

FOR FURTHER INFORMATION CONTACT:

Jomar Maldonado, Director for NEPA, 202–395–5750, Jomar.MaldonadoVazquez@ceq.eop.gov. The guidance is available for viewing online at www.nepa.gov.

SUPPLEMENTARY INFORMATION:

On April XX, 2026, CEQ issued a memorandum entitled *Establishing, Revising, Adopting, and Applying Categorical Exclusions Under the National Environmental Policy Act* to provide guidance to Federal agencies regarding categorical exclusions. This guidance replaces guidance issued on December 6, 2010, entitled *Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act*, which CEQ published at www.nepa.gov and reproduced in a **Federal Register** notice (75 FR 75628 (Dec. 6, 2010)). The 2010 Guidance is now rescinded.

Since CEQ issued the 2010 Guidance, Congress revised NEPA to (1) include, for the first time, a definition of “categorical exclusion,” and (2) establish a process by which an agency may adopt and use a categorical exclusion listed in another agency’s NEPA implementing procedures. 42 U.S.C. 4336e(1), 4336c. In addition, the 2010 Guidance was issued pursuant to and based on CEQ’s 1978 NEPA implementing regulations. CEQ has rescinded all iterations of its NEPA implementing regulations effective

April 11, 2025. *See* Removal of National Environmental Policy Act Implementing Regulations, 90 FR 10610 (Feb. 25, 2025) (interim final rule); 91 FR 618 (Jan. 8, 2026) (final rule). Therefore, it is appropriate for CEQ to issue revised guidance at this time.

CEQ has long emphasized the importance of categorical exclusions as a core feature of NEPA practice to facilitate efficient and effective reviews in accordance with Congress’s intent. Congress also recognizes that categorical exclusions are a form of review that agencies use to comply with NEPA for proposed actions that normally do not significantly affect the quality of the human environment. By identifying categorical exclusions as a threshold consideration for whether an EA or EIS is required, Congress has expressly directed agencies to consider which categories of actions they perform “normally” do not have significant effects. For these reasons, agencies should establish categorical exclusions to cover such categories of actions, adopt other agencies’ categorical exclusions where appropriate, and in all instances consider whether a proposed action is excluded pursuant to a categorical exclusion before beginning to develop an EA or EIS for that proposed action. *See* 42 U.S.C. 4336e(1), 4336c, 4336(a)(2), (b)(2).

The contents of the guidance do not have the force and effect of law and are not meant to create legal rights or obligations to any public party. The guidance does not establish new policy requirements. The guidance is intended only to provide clarity to the agencies regarding existing requirements under the law or agency policies. CEQ developed this guidance to expedite and simplify the permitting process and promote consistency as to NEPA’s implementation consistent with 42 U.S.C. 4332(2)(B) and Section 5 of Executive Order 14154, *Unleashing American Energy* (90 FR 8353, Jan. 20, 2025).

The guidance is available at www.nepa.gov.

Katherine R. Scarlett,

Chairman.

[FR Doc. 2026–07115 Filed 4–10–26; 8:45 am]

BILLING CODE 3325–FC–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Science, Technology and Innovation Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of War (DoW) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Science, Technology, and Innovation Board (STIB) will take place.

DATES: Closed to the public Tuesday, July 14 through Thursday, July 16, 2026, from 8:00 a.m. to 6:00 p.m.

ADDRESSES: The address of the closed meeting is Strategic Analysis, Inc., 4075 Wilson Boulevard, Ste. 300, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth J. Kowalski, Designated Federal Officer (DFO): (703) 571-0082 (Voice), osd.pentagon.ousd-r-e.mbx.stib-office@mail.mil (Email). Mailing address is Science, Technology, and Innovation Board, 4800 Mark Center Dr., Suite 15D08, Alexandria, VA 22311. Website: <https://stib.cto.mil/>.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”); 5 U.S.C. 552b (commonly known as the “Government in the Sunshine Act”); and parts 102–3.140 and 102–3.150 of title 41 Code of Federal Regulations (CFR).

Purpose of the Meeting: The STIB’s mission is to provide independent advice and recommendations on matters supporting DoW’s scientific, technological, and innovative enterprises. The objective of the meeting is to obtain, review, and evaluate classified information related to the STIB’s mission. The STIB will meet with DoW leadership to discuss classified, current and future national security challenges and priorities within DoW and deliberate and vote on findings and recommendations.

Agenda: The meeting will begin on Tuesday, July 14, 2026, at 8:00 a.m. Ms. Elizabeth Kowalski, DFO and Dr. Mitch Nikolich, Chair of the STIB, will provide opening remarks and a classified overview of the objectives of the Fiscal Year (FY) 25 National Defense Authorization Act (NDAA) section 245, Designation of Certain Facilities on Kwajalein Atoll as a Major Range and Test Facility Base. Next, the STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the

availability and mission capability of such test site and garrison, with working lunch and periodic breaks. The meeting will adjourn at 6:00 p.m. and will continue Wednesday, July 15, 2026, at 8:00 a.m. The STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. The meeting will adjourn at 6:00 p.m. and will continue Thursday, July 16, 2026, at 8:00 a.m. The STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. Lastly, the members will deliberate and vote on the finalized product regarding the classified overview of the objectives of the FY 25 NDAA section 245, Designation of Certain Facilities on Kwajalein Atoll as a Major Range and Test Facility Base. The meeting will adjourn at 6:00 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, DoW has determined that these STIB meetings will be closed to the public. Specifically, the Under Secretary of War for Research and Engineering, in consultation with DoW Office of General Counsel, has determined in writing that the meeting will be closed to the public because discussions fall under the purview of 5 U.S.C. 552b(c)(1). The determination is based on the consideration that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the STIB’s findings and recommendations to the Secretary of War and to the Under Secretary of War for Research and Engineering.

Written Statements: In accordance with 5 U.S.C. 1009(a) (3) and 41 CFR 102–3.140(c) and 102–3.150(6)

interested persons may submit a written statement for consideration by the STIB at any time, subject to such reasonable rules or regulations as the Administrator may prescribe. Individuals submitting a written statement must submit their statement to the STIB DFO at the email address provided in the **FOR FURTHER INFORMATION CONTACT** section. If a written statement for consideration at a meeting is not received at least three-calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to, or considered by, the STIB until a later date. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection.

Dated: April 9, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–07118 Filed 4–10–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Science, Technology and Innovation Board: Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of Federal Advisory committee meeting.

SUMMARY: The Department of War (DoW) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Science, Technology, and Innovation Board (STIB) will take place.

DATES: Closed to the public; Tuesday, June 23 through Thursday, June 25, 2026, from 8:00 a.m. to 6:00 p.m.

ADDRESSES: The address of the closed meeting is Strategic Analysis, Inc., 4075 Wilson Boulevard, Ste. 300, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth J. Kowalski, Designated Federal Officer (DFO): (703) 571-0082 (Voice), osd.pentagon.ousd-r-e.mbx.stib-office@mail.mil (Email). Mailing address is Science, Technology, and Innovation Board, 4800 Mark Center Dr, Suite 15D08, Alexandria, VA 22311. Website: <https://stib.cto.mil/>.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”); title 5, U.S.C. 552b (commonly known as the “Government

in the Sunshine Act”); and parts 102–3.140 and 102–3.150 of title 41 Code of Federal Regulations (CFR).

Purpose of the Meeting: The STIB’s mission is to provide independent advice and recommendations on matters supporting DoW’s scientific, technological, and innovative enterprises. The objective of the meeting is to obtain, review, and evaluate classified information related to the STIB’s mission. The STIB will meet with DoW leadership to discuss classified current and future national security challenges and priorities within DoW and deliberate and vote on findings and recommendations.

Agenda: The meeting will begin on Tuesday, June 23, 2026, at 8:00 a.m. Ms. Elizabeth Kowalski, DFO and Dr. Mitch Nikolich, Chair of the STIB, will provide opening remarks and a classified overview of the objectives of the Fiscal Year (FY 25) National Defense Authorization Act (NDAA) Section 245, Designation of Certain Facilities on Kwajalein Atoll as a Major Range and Test Facility Base. Next, the STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. The meeting will adjourn at 6:00 p.m. and will continue Wednesday, June 24, 2026, at 8:00 a.m. The STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. The meeting will adjourn at 6:00 p.m. and will continue Thursday, June 25, 2026, at 8:00 a.m. The STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. Lastly, Ms. Elizabeth Kowalski, DFO and Dr. Mitch Nikolich, STIB Chair, will provide closing remarks regarding the day’s classified overview

of the objectives of the FY 25 NDAA section 245, Designation of Certain Facilities on Kwajalein Atoll as a Major Range and Test Facility Base. The meeting will adjourn at 6:00 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, DoW has determined that these STIB meetings will be closed to the public. Specifically, the Under Secretary of War for Research and Engineering, in consultation with the DoW Office of General Counsel, has determined in writing that the meeting will be closed to the public because discussions fall under the purview of 5 U.S.C. 552b(c)(1). The determination is based on the consideration that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the STIB’s findings and recommendations to the Secretary of War and to the Under Secretary of War for Research and Engineering.

Written Statements: In accordance with 5, U.S.C. 1009(a)(3) and 41 CFR 102–3.140(c) and 102–3.150(6) interested persons may submit a written statement for consideration by the STIB at any time, subject to such reasonable rules or regulations as the Administrator may prescribe. Individuals submitting a written statement must submit their statement to the STIB DFO at the email address provided above in the **FOR FURTHER INFORMATION CONTACT** section. If a written statement for consideration at a meeting is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to, or considered by, the STIB until a later date. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection.

Dated: April 9, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–07119 Filed 4–10–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Science, Technology and Innovation Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD)

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of War (DoW) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Science, Technology, and Innovation Board (STIB) will take place.

DATES: Closed to the public; Tuesday, May 12 through Thursday, May 14, 2026, from 8:00 a.m. to 6:00 p.m.

ADDRESSES: The address of the closed meeting is the RTS Operation Center-Huntsville (ROC–H), Huntsville, AL 35806.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth J. Kowalski, Designated Federal Officer (DFO): (703) 571–0082 (Voice), osd.pentagon.ousd-r-e.mbx.stib-office@mail.mil (Email). Mailing address is Science, Technology, and Innovation Board, 4800 Mark Center Dr, Suite 15D08, Alexandria, VA 22311. Website: <https://stib.cto.mil/>.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”); (5 U.S.C. 552b (commonly known as the “Government in the Sunshine Act”); and sections 102–3.140 and 102–3.150 of title 41 Code of Federal Regulations (CFR).

Purpose of the Meetings: The STIB’s mission is to provide independent advice and recommendations on matters supporting DoW’s scientific, technological, and innovative enterprises. The objective of the meetings is to obtain, review, and evaluate classified information related to the STIB’s mission. The STIB will meet with DoW leadership to discuss classified current and future national security challenges and priorities within DoW and deliberate and vote on findings and recommendations.

Agenda: The meeting will begin on Tuesday, May 12, 2026, at 8:00 a.m. Ms. Elizabeth Kowalski, DFO and Dr. Mitch Nikolich, Chair of the STIB, will provide opening remarks and a classified overview of the objectives of the FY 25 NDAA Section 245, Designation of Certain Facilities on Kwajalein Atoll as a Major Range and Test Facility Base. Next, the STIB

members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. The meeting will adjourn at 6:00 p.m. and will continue Wednesday, May 13, 2026, at 8:00 a.m. The STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. The meeting will adjourn at 6:00 p.m. and will continue Thursday, May 14, 2026, at 8:00 a.m. The STIB members will meet to assess the feasibility and advisability of designating the Ronald Reagan Ballistic Missile War Test Site and United States Army Garrison Kwajalein Atoll as facilities and resources comprising the Major Range and Test Facility Base, including with respect to the availability and mission capability of such test site and garrison, with working lunch and periodic breaks. Next, Ms. Elizabeth Kowalski, DFO and Dr. Mitch Nikolich, STIB, will provide closing remarks regarding the day's classified overview of the objectives of FY 25 NDAA Section 245, Designation of Certain Facilities on Kwajalein Atoll as a Major Range and Test Facility Base. The meeting will adjourn at 6:00 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, DoW has determined that this STIB meeting will be closed to the public. Specifically, the Under Secretary of War for Research and Engineering, in consultation with the DoW Office of General Counsel, has determined in writing that the meeting will be closed to the public because discussions fall under the purview of 5 U.S.C. 552b(c)(1). The determination is based on the consideration that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the

public would preclude discussion of such matters and would greatly diminish the ultimate utility of the STIB's findings and recommendations to the Secretary of War and to the Under Secretary of War for Research and Engineering.

Written Statements: In accordance with 5 U.S.C. 1009(a)(3) and 41 CFR 102–3.140(c) and 102–3.150(6) interested persons may submit a written statement for consideration by the STIB at any time, subject to such reasonable rules or regulations as the Administrator may prescribe. Individuals submitting a written statement must submit their statement to the STIB DFO at the email address provided above in the **FOR FURTHER INFORMATION CONTACT** section. If a written statement for consideration at a meeting is not received at least three days prior to the meeting, which is the subject of this notice, then it may not be provided to, or considered by, the STIB until a later date. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection.

Date: April 9, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–07120 Filed 4–10–26; 8:45 am]

BILLING CODE 6001–FR–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: Election Assistance Commission.

ACTION: Sunshine Act Notice; Notice of Public Meeting Agenda.

SUMMARY: Public Meeting: U.S. Election Assistance Commission Board of Advisors 2026 Annual Meeting.

DATES: Tuesday, April 28, 2026, 9:00 a.m. to 5:00 p.m. ET and Wednesday, April 29, 2026, 8:30 to 11:45 a.m. ET. The public registration deadline for the event is on or before April 24, 2026. Written comments should be received no later than 24 hours prior to the start of the meeting.

ADDRESSES: The meeting will be held in person at the U.S. Election Assistance Commission, 633 3rd Street NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: kmuthig@eac.gov.

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as

amended (5 U.S.C. 552b), and the Federal Advisory Committee Act (5 U.S.C. 10), the EAC will conduct an annual meeting of the EAC Board of Advisors to conduct regular business, discuss EAC updates and upcoming programs, and other relevant election topics.

Agenda: The EAC will hold its 2026 Board of Advisors Annual Meeting to conduct regular business, learn about EAC agency developments, and more. The board will also vote to elect members to Executive Officer positions.

Registration is required to attend. Members of the public should register by April 24, 2026: eac.gov/events/2026/04/28/2026-eac-board-advisors-annual-meeting.

Public comments on the meeting must be submitted in writing on [regulations.gov](https://www.regulations.gov) (docket ID: EAC–2026–0133). Comments must be received no later than 24 hours prior to the start of the meeting.

Background: HAVA designates the Board of Advisors to assist the EAC in carrying out its mandates under the law. The board consists of 35 members composed of representatives from specified associations, organizations, federal departments, and members of Congress.

The full agenda will be posted in advance on the EAC website: www.eac.gov/events/2026/04/28/2026-eac-board-advisors-annual-meeting.

Status: This meeting will be open to the public.

Seton Parsons,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2026–07092 Filed 4–9–26; 4:15 pm]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, May 13, 2026; 6–8 p.m. EDT.

ADDRESSES: Department of Energy (DOE) Information Center, Office of Science and Technical Information, 1

Science.gov Way, Oak Ridge, Tennessee 37831. This meeting will be held in-person at the DOE Information Center and virtually. To receive the virtual access information, please send an email to: orssab@orem.doe.gov at least two days prior to the meeting.

FOR FURTHER INFORMATION CONTACT:

Melyssa P. Noe, Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 4067, EM-94, Oak Ridge, TN 37831; Phone (865) 241-3315; or E-Mail: Melyssa.Noe@orem.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on other EM program components. The Board also provides an avenue to fulfill public participation requirements outlined in the National Environmental Policy Act (NEPA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders, Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please email orssab@orem.doe.gov for the most current agenda).

- OREM Presentation to the Board
- Discussion
- Public Comment Period
- Board Business

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please email orssab@orem.doe.gov. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special

needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting.

Meeting conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: <https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings>.

Signing Authority: This document of the Department of Energy was signed on April 9, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 9, 2026.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026-07096 Filed 4-10-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23-29-002]

Saguaro Connector Pipeline, LLC; Notice of Request for Extension of Time

Take notice that on April 1, 2026, Saguaro Connector Pipeline, LLC (Saguaro) requested that the Commission grant an extension of time, until February 15, 2030, to construct and place into service its Border Facility Project (Project) involving the construction of an approximately 1,000 foot-long, 48-inch-diameter pipeline from the United States-Mexico border at the center of the Rio Grande River to a point approximately 1,000 feet inland from the river, about 18 miles southwest of Sierra Blanca in Hudspeth County, Texas as authorized in the Order Issuing

Presidential Permit and Granting Authorization Under Section 3 of the Natural Gas Act (Order).¹ The Order required Saguaro to complete construction of the Project and make it available for service within three years of the date of the Order, or by February 15, 2027.

Saguaro states that since the issuance of the Order, the Project has been delayed and construction of the facilities has not yet commenced, due in large part to the uncertainty of the pending litigation, commercial negotiations, and a delay in the commencement of service of the downstream LNG terminal on the Mexican side of the border. Saguaro reiterates that the Project is part of an overall package of investment to supply a to-be-constructed LNG terminal in Mexico with access to supplies from the Waha Hub. Saguaro states that it prudently hesitated to proceed with a final investment decision and construction plans while the appeals process was ongoing. However, now that there is certainty regarding the section 3 authorization and Presidential Permit in place, Saguaro has been in negotiations with the original shipper as well as new shippers interested in utilizing the Project. Given the current interest in the Project after nearly a year and a half of pending litigation, Saguaro needs additional time to discuss its financing options with interested shippers.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Saguaro's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension

¹ *Saguaro Connector Pipeline, LLC*, 186 FERC ¶ 61,114 (Authorization Order) (errata notice issued February 20, 2024), *reh'g denied*, 187 FERC ¶ 62,050, *modified on reh'g*, 188 FERC ¶ 61,029 (2024), *petition for review denied sub nom. Sierra Club, et al. v. FERC*, 145 F.4th 74 (D.C. Cir. 2025) (Appeals Opinion).

requests that are contested,² the Commission will aim to issue an order acting on the request within 45 days.³ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁴ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).⁵ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.⁶ The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

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 in lieu of paper using the "eFile" link at <http://www.ferc.gov>.

² Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

³ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁴ *Id.* at P 40.

⁵ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

⁶ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

www.ferc.gov. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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.

Comment Date: 5:00 p.m. Eastern Time on April 23, 2026.

(Authority: 18 CFR 2.1)

Dated: April 8, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07128 Filed 4-10-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2716-051]

Virginia Electric and Power Company d/b/a Dominion Energy Virginia, Allegheny Generating Company, and Bath County Energy, LLC: Notice of Intent To Prepare an Environmental Assessment

On December 30, 2024, Virginia Electric and Power Company d/b/a Dominion Energy Virginia, Allegheny Generating Company, and Bath County Energy, LLC (Dominion) filed a relicense application for the 2,484-megawatt Bath County Pumped Storage Project No. 2716 (project). The project is located on Back Creek and Little Back Creek in Bath, Highland, Augusta, and Rockbridge counties, Virginia. The project includes a 278-acre upper reservoir impounded by a 2,250-foot-long, 460-foot-high, earth and rock-fill dam; (2) a primarily underground powerhouse housing six Francis reversible pump-turbines; and (3) a 555-acre lower reservoir impounded by a 2,100-foot-long, 135-foot-high, earth and rock-fill dam. The current project boundary encompasses 3,451 acres of land, including 1,122 acres of federal land in the George Washington and Jefferson National Forests administered by the U.S. Forest Service.

In accordance with the Commission's regulations, on January 15, 2026, Commission staff issued a notice that the project was ready for environmental analysis (REA notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an environmental assessment (EA) on the application to relicense the project.¹

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA.	November 20, 2026.

Any questions regarding this notice may be directed to Andy Bernick at (202) 502-8660 or email at andrew.bernick@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: April 7, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07124 Filed 4-10-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-74-000]

Southern Star Central Gas Pipeline, Inc.; Notice of Schedule for the Preparation of an Environmental Assessment for the Viola Project

On January 21, 2026, Southern Star Central Gas Pipeline, Inc. (Southern Star) filed an application in Docket No. CP26-74-000 requesting a Certificate of Public Convenience and Necessity

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1774339686.

pursuant to Section 7(c) of the Natural Gas Act for the Viola Project (Project) in Sumner County, Kansas. Southern Star proposes to construct a new meter station, flow station, compressor station, and the Line UA natural gas pipeline, in order to flow up to 116,296 dekatherms per day of natural gas. The Viola Project would support and supply the 710-megawatt combined cycle power generation Viola Plant, which is currently under construction in Sumner County, and would be owned and operated by Evergy Kansas Central, Inc. (Evergy).

On February 4, 2026, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.¹ The EA will be issued for a 30-day comment period.

Schedule for Environmental Review

Issuance of EA—October 9, 2026
90-day Federal Authorization Decision Deadline²—January 7, 2027

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project would consist of the facilities and activities detailed below, all in Sumner County, Kansas:

- approximately 19.33 miles of new 16-inch-diameter natural gas pipeline (Line UA), which would connect to Southern Star's existing 20-inch-diameter Line U;
- the new Wellington Compressor Station, consisting of three compressor

units totaling 12,375 horsepower, along with ancillary station equipment;

- a new mainline valve on Line U; and
- the Evergy Meter Setting, a meter station which would connect Line UA to the new Evergy Viola Plant.

Background

On March 4, 2026, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Viola Project* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. The Commission received a comment regarding concerns over air and noise emissions, as well as potential safety risks of a compressor station and pipeline within 1 mile of a residence. All substantive comments received will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

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, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (i.e., CP26-74), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

(Authority: 18 CFR 2.1)

Dated: April 7, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07122 Filed 4-10-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26-750-000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: 4(d) Rate Filing: Negotiated Rate Agreement Update (WTG April 2026) to be effective 4/8/2026.

Filed Date: 4/8/26.

Accession Number: 0260408-5000.

Comment Date: 5 p.m. ET 4/20/26.

Docket Numbers: RP26-751-000.

Applicants: Viking Gas Transmission Company.

Description: Compliance filing: Conforming Displacement Agreements—Koch and World Fuel to be effective N/A.

Filed Date: 4/8/26.

Accession Number: 0260408-5116.

Comment Date: 5 p.m. ET 4/20/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1774341286.

² The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

Dated: April 8, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–07108 Filed 4–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR25–52–003]

Consumers Energy Company; Notice of Informal Settlement Conference

Take notice that on April 20, 2026, the Commission will hold an informal virtual settlement conference at 10 a.m., Eastern Time, in the above-referenced proceeding.

The informal settlement conference is convened pursuant to 18 CFR 284.123(g)(5) (2025). At the conference, Consumers Energy Company should be prepared to address all issues raised by Commission staff protest in Docket No. PR25–52–003, excluding those issues raised by the protest and request for rehearing in Docket No. PR25–52–002, and to provide, as necessary, additional support for its filing.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to accessibility@ferc.gov or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact Nan Zhang at (202) 502–6134 or email at qiannan.zhang@ferc.gov or Vince Mareino at (202) 502–6167 or email at vince.mareino@ferc.gov.

Dated: April 7, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–07125 Filed 4–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ26–7–000]

Western Area Power Administration: Notice of Filing

Take notice that on March 30, 2026, Western Area Power Administration submits tariff filing per 35.28(e): a revision to its non-jurisdictional Open Access Transmission Tariff to be effective April 1, 2026.

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.

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.

Comment Date: 5:00 p.m. Eastern Time on April 29, 2026.

Dated: April 8, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–07111 Filed 4–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–13–000]

MountainWest Overthrust Pipeline, LLC; Notice of Motion To Vacate Certificate in Part

Take notice that on March 11, 2026, MountainWest Overthrust Pipeline, LLC (Overthrust), 650 South Main Street, Suite 300, Salt Lake City, Utah 84101, filed in the above-referenced docket a motion to vacate a portion of the certificate authority granted by the Commission on October 17, 2024.¹ In the Certificate Order, the Commission granted Overthrust a certificate of public convenience and necessity to construct the Westbound Compression Expansion Project (Project) located in Lincoln and Sweetwater Counties, Wyoming. The Project created 325,000 dekatherms per day of incremental firm transportation capacity from Overthrust's existing Wamsutter Interconnect to a new Kern River Gas Transmission Company (Kern River) delivery point near Overthrust's existing Roberson Compressor Station.

In its motion, Overthrust states that it has constructed most of the certificated facilities, with the exception of a pig launcher at its existing Cabin 31 Interconnect Pipeline Facility (Cabin 31). On November 13, 2025, Commission staff authorized Overthrust to place the completed facilities into service, noting that Overthrust reported that it would be able to provide the full project capacity without completion of the pig launcher. Overthrust states that, due to a delay in receiving the revised right-of-way grant from the Kemmerer Bureau of Land Management and not yet reaching agreement with a private landowner, Overthrust has not begun construction at Cabin 31. Overthrust explains that these facilities are auxiliary and not necessary to provide the full capacity, but that it will continue efforts to install the Cabin 31 facilities at a later time for future maintenance and safety of the pipeline. Therefore, Overthrust requests that the Commission vacate the portion of the certificate for the project that authorizes the Cabin 31 facilities.

¹ MountainWest Overthrust Pipeline, LLC, 189 FERC ¶ 61,046 (2024) (Certificate Order).

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.

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Any questions regarding the application should be directed to Nicole M. Turpen, Senior Counsel, MountainWest Overthrust Pipeline, LLC, P.O. Box 1396, Houston, Texas 77251-1396, by phone at (346) 415-5242, or by email at nicole.turpen@williams.com.

Public Participation

There are three ways to become involved in the Commission's review of Overthrust's request: you can file comments on the application, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on April 28, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502-6595 or OPP@ferc.gov.

Comments

Any person wishing to comment on the application may do so. Comments may include statements of support or objections, to the application as a whole or specific aspects of the application. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)² and 385.211³ of the Commission's regulations under the NGA, any person⁴ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁵ of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on April 28, 2026.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP24-13-000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP24-13-000).

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

² 18 CFR 157.10(a)(4).

³ 18 CFR 385.211.

⁴ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁵ 18 CFR 385.2001.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁶ has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁷ and the regulations under the NGA⁸ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on April 28, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24-13-000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three

⁶ 18 CFR 385.102(d).

⁷ 18 CFR 385.214.

⁸ 18 CFR 157.10.

copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24–13–000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail at: Nicole M. Turpen, Senior Counsel, MountainWest Overthrust Pipeline, LLC, P.O. Box 1396, Houston, Texas 77251–1396, or by email (with a link to the document) at nicole.turpen@williams.com.

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed⁹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹⁰ Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.¹¹ A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at www.ferc.gov using the “eLibrary” link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

⁹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹⁰ 18 CFR 385.214(c)(1).

¹¹ 18 CFR 385.214(b)(3) and (d).

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on April 28, 2026.

(Authority: 18 CFR 2.1)

Dated: April 7, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–07123 Filed 4–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–211–000.

Applicants: Snapdragon Solar, LLC.

Description: Snapdragon Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/8/26.

Accession Number: 20260408–5042.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: EG26–212–000.

Applicants: E South Hero Co. LLC.

Description: E South Hero Co. LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/8/26.

Accession Number: 20260408–5115.

Comment Date: 5 p.m. ET 4/29/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–192–001.

Applicants: MRP Elgin LLC.

Description: Report Filing: Errata to Refund Report to be effective N/A.

Filed Date: 4/7/26.

Accession Number: 20260407–5114.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER24–193–001.

Applicants: MRP Rocky Road LLC.

Description: Report Filing: Errata to Refund Report to be effective N/A.

Filed Date: 4/7/26.

Accession Number: 20260407–5118.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER25–2600–003.

Applicants: Midcontinent Independent System Operator, Inc., Duke Energy Indiana, LLC.

Description: Compliance filing: Duke Energy Indiana, LLC submits tariff filing per 35: 2026–04–08 Additional Compliance for DEI Template RE Procurement Subsidiary to be effective 2/23/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5191.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–980–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Response to Mar. 9, 2026 Deficiency Notice to be effective 3/10/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5104.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1400–000; ER26–1400–001; ER26–1400–002.

Applicants: PJM Interconnection, L.L.C.

Description: Motion for Leave to Answer and Answer and Request for Expedited Action of PJM Interconnection, L.L.C. in response to the 03/25/2026 protest filed by Leeward Renewable Energy Development, LLC et al.

Filed Date: 4/8/26.

Accession Number: 20260408–5178.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1784–001.

Applicants: SR Bacon, LLC.

Description: Tariff Amendment: Amendment to Petition for MBR Authorization and Tariff Updates to be effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5161.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1785–001.

Applicants: SR Tullahoma, LLC.

Description: Tariff Amendment: Response to Deficiency Letter and Tariff Updates to be effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5139.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1786–001.

Applicants: SR Middleton, LLC.

Description: Tariff Amendment: Response to Deficiency Letter and Tariff Updates to be effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5134.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1787–001.

Applicants: SR Bacon II, LLC.

Description: Tariff Amendment: Amendment to Petition for MBR Authorization and Tariffs Updates to be effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5166.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1788–001.

Applicants: SR Puryear, LLC.
Description: Tariff Amendment:
 Response to Deficiency Letter and Tariff
 Updates to be effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5136.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1789–001.

Applicants: Horus Kentucky 1, LLC.

Description: Tariff Amendment:
 Response to Deficiency Letter and Tariff
 Updates to be effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5132.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1790–001.

Applicants: SR Bacon III, LLC.

Description: Tariff Amendment:
 Amendment to Petition for MBR
 Authorization and Tariffs Updates to be
 effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5168.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1793–001.

Applicants: SR Rochelle, LLC.

Description: Tariff Amendment:
 Amendment to Petition for MBR
 Authorization and Tariff Updates to be
 effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5170.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–1794–001.

Applicants: SR Rochelle II, LLC.

Description: Tariff Amendment:
 Amendment to Petition for MBR
 Authorization and Tariff Updates to be
 effective 5/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5175.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2062–000.

Applicants: NSTAR Electric

Company.

Description: Tariff Amendment:
 Cancellation—BXP, Inc.—
 Interconnection Study Agreement to be
 effective 4/9/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5061.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2063–000.

Applicants: NSTAR Electric

Company.

Description: Tariff Amendment:
 Cancellation—BXP, Inc.—
 Interconnection Study Agreement to be
 effective 4/9/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5063.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2064–000.

Applicants: USS Hampden Solar LLC.

Description: Initial Rate Filing:
 Application for Blanket MBR
 Authorization w/Waivers & Expedited
 Treatment to be effective 4/10/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5152.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2065–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2026–
 04–08_SA 4736 Entergy Louisiana–
 Entergy Louisiana GIA (E0029) to be
 effective 4/6/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5154.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2066–000.

Applicants: Canyon Peak Power LLC.

Description: Initial Rate Filing:
 Application for Market Based Rate to be
 effective 5/8/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5157.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2067–000.

Applicants: USS Tallgrass Solar LLC.

Description: Initial Rate Filing:
 Application for Blanket MBR
 Authorization w/Waivers & Expedited
 Treatment to be effective 4/10/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5159.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2068–000.

Applicants: Black Hills Colorado
 Electric, LLC.

Description: 205(d) Rate Filing:
 Amended and Restated Network
 Operating Agreement to be effective 3/
 10/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5163.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2069–000.

Applicants: Black Hills Colorado
 Electric, LLC.

Description: 205(d) Rate Filing: Filing
 of Second Amended and Restated
 Service Agreement NITSA to be
 effective 3/10/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5164.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2070–000.

Applicants: Alton Post Office Solar,
 LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5171.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2071–000.

Applicants: Jones Farm Lane Solar,
 LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5173.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2072–000.

Applicants: Morgnac Road Solar, LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5174.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2073–000.

Applicants: Spring Grove Solar II,
 LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5177.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2074–000.

Applicants: Aspen Road Solar 1, LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5181.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2075–000.

Applicants: Crystal Hill Solar, LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5189.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2076–000.

Applicants: Egypt Road Solar, LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5192.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ER26–2077–000.

Applicants: Foxglove Solar Project,
 LLC.

Description: 205(d) Rate Filing:
 Revised Market-Based Rate Tariff to be
 effective 4/16/2026.

Filed Date: 4/8/26.

Accession Number: 20260408–5193.

Comment Date: 5 p.m. ET 4/29/26.

Take notice that the Commission
 received the following electric securities
 filings:

Docket Numbers: ES26–34–000.

Applicants: Xcel Energy Southwest
 Transmission Company, LLC.

Description: Application Under
 Section 204 of the Federal Power Act for
 Authorization to Issue Securities of Xcel
 Energy Southwest Transmission
 Company, LLC.

Filed Date: 4/8/26.

Accession Number: 20260408–5067.

Comment Date: 5 p.m. ET 4/29/26.

Docket Numbers: ES26–35–000.

Applicants: Xcel Energy Transmission
 Development Company, LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Xcel Energy Transmission Development Company, LLC.

Filed Date: 4/7/26.

Accession Number: 20260407–5218.

Comment Date: 5 p.m. ET 4/28/26.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC17–4–000.

Applicants: I Squared Capital.

Description: I Squared Capital submits Notification of Change in Foreign Utility Company Ownership Status.

Filed Date: 4/1/26.

Accession Number: 20260401–5500.

Comment Date: 5 p.m. ET 4/22/26.

Docket Numbers: FC18–3–000.

Applicants: I Squared Capital.

Description: I Squared Capital submits Notification of Change in Foreign Utility Company Ownership Status.

Filed Date: 4/1/26.

Accession Number: 20260401–5434.

Comment Date: 5 p.m. ET 4/22/26.

Docket Numbers: FC24–2–000.

Applicants: I Squared Capital.

Description: I Squared Capital submits Notification of Change in Foreign Utility Company Ownership Status.

Filed Date: 4/1/26.

Accession Number: 20260401–5504.

Comment Date: 5 p.m. ET 4/22/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as

interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: April 8, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–07112 Filed 4–10–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2426–235]

California Department of Water Resources & Los Angeles Department of Water and Power; Notice of Revised Procedural Schedule for an Environmental Impact Statement for the Proposed Project Relicense

On January 30, 2020, the California Department of Water Resources and the Los Angeles Department of Water and Power (co-licensees) filed an application for a new license to continue to operate and maintain the 1,350-megawatt South SWP Hydroelectric Project No. 2426 (South SWP Project). On April 30, 2025, Commission staff (staff) issued a notice of intent to prepare an environmental impact statement (EIS) to evaluate the effects of relicensing the South SWP Project. The notice included an anticipated schedule for issuing a Draft EIS in August 2025 and the Final EIS by March 31, 2026.

Staff are still evaluating the effects of relicensing the South SWP Project. In order for staff to fully consider all the information filed by the co-licensees, the procedural schedule for completing the Draft and Final EIS is being revised as follows. Further revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues Draft EIS.	August 7, 2026.
Comments on the Draft EIS due.	September 21, 2026.
Commission issues Final EIS.	March 31, 2027.

Questions regarding this notice may be directed to Quinn Emmering at (202) 502–6382 or Quinn.Emmering@ferc.gov. (Authority: 18 CFR 2.1.)

Dated: April 8, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–07126 Filed 4–10–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 26–305; FR ID 340165]

Notice of Suspension and Commencement of Proposed Debarment Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the “Bureau”) gives notice of the suspension of Shawn Clemmons from the schools and libraries universal service support mechanism (or “E-Rate Program”) and all universal service support mechanisms. Additionally, the Bureau gives notice that debarment proceedings are commencing against Mr. Clemmons, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation.

DATES: Opposition requests must be submitted within 30 days of receiving the suspension letter or by May 13, 2026, whichever comes first. The Bureau will decide on any opposition request within 90 days.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher Sova may be contacted by phone at (202) 418–1868 or by email at Christopher.Sova@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspensions ensure that suspended parties cannot continue to benefit from the schools and libraries mechanism pending resolution

of the debarment process. Attached is the suspension letter, DA 26–305, which was mailed to Mr. Clemmons, and released on April 13, 2026. The complete text of the notice of suspension and initiation of debarment proceedings is available on the FCC's

website at <https://docs.fcc.gov/public/attachments/DA-26-305A1.pdf>.

Federal Communications Commission.

Christopher Sova,

*Chief, Investigations and Hearings Division,
Enforcement Bureau.*

BILLING CODE 6712–01–P

**Federal Communications Commission**

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

April 7, 2026

DA 26-305

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Shawn Clemmons
c/o Steven S. Nolder, Esq.
Steven S. Nolder, Attorney at Law
65 E State St., Suite 200
Columbus Ohio 43215

**Re: Notice of Suspension and Initiation of Debarment Proceeding
File No. EB-IHD-25-00038475**

Dear Mr. Clemmons:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) received notice of your conviction for making false claims, in violation of 18 U.S.C. § 287, arising out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).¹ The crime involved knowingly submitting false statements to the Universal Service Administrative Company (USAC) that the South Central Ohio Computer Association (SCOCA), an E-Rate program service provider of which you were the executive director, was in compliance with the rules and orders governing the E-Rate program.² Consequently, pursuant to 47 CFR § 54.8, this letter constitutes official notice of your suspension from the E-Rate program and all federal universal service support mechanisms.³ While suspended, you are prohibited from participating in or receiving any benefit associated with all federal universal service support mechanisms, including the E-Rate program. Additionally, in accordance with the Commission's rules, the Bureau is commencing a proceeding to debar you from future participation in all federal universal service support mechanisms for three years.⁴

¹ Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent sentencing in *United States v. Shawn Clemmons*, Case No. 2:19-cr-00226-EAS, Judgment and Sentencing Order (S.D. Ohio, issued Jun. 7, 2021) (*Sentencing Order*).

² *United States v. Shawn Clemmons*, Case No. 2:19-cr-00226-EAS, Information (S.D. Ohio, filed Oct. 22, 2019) (*Information*).

³ 47 CFR 54.8. On March 26, 2026, new rules were adopted allowing the Commission to take quicker and more comprehensive action to exclude bad actors from participating in Congressionally-mandated funding programs, such as the E-Rate program. See *Modernizing Suspension & Debarment Rules*, GN Docket No. 19-309, Report & Order, Direct Final Rule, and Further Notice of Proposed Rulemaking, FCC 26-18 (Mar. 27, 2026).

⁴ 47 CFR 54.8; *Id.* 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (*Second Report and Order*) (adopting section 54.521 to suspend and debar parties from the E-Rate program). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms. See *Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410-12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁵ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure E-Rate funds are used for their intended purpose.⁶ Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.⁷ The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.⁸ Solicitations for E-Rate services must be based on fair and open competitive bidding, free from any conflicts of interest.⁹

You pleaded guilty to making false claims that involved deceptively using the E-Rate invoicing and reimbursement process.¹⁰ As the executive director of SCOCA, you unlawfully withheld reimbursements to schools substantially longer than the 20 business days that SCOCA was permitted to hold the reimbursements.¹¹ You regularly used USAC reimbursements from one Funding Year to pay schools the reimbursements they were owed for the previous Funding Year, contrary to the rules governing the E-Rate program.¹² In E-Rate Funding Year 2014, you caused all but one of SCOCA’s client public schools to not receive their reimbursements from SCOCA.¹³ As a result of your false claims activity, the public schools collectively were not reimbursed \$2,012,572.90, and collectively had to pay an additional \$1,218,401.50.¹⁴ During that time, you made a false claim to USAC that SCOCA was in compliance with the E-Rate program rules.¹⁵

In June 2021, the United States District Court for the Southern District of Ohio sentenced you to sixty days in prison and thirty months of probation.¹⁶ The court also ordered you to pay a \$3,230,974.40 in restitution¹⁷ and a \$100 special assessment fee.¹⁸

Pursuant to section 54.8(d) of the Commission’s rules,¹⁹ your conviction requires the Bureau to suspend you from: (a) participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program; and (b) participating in any activities associated with or related to all federal universal service support mechanisms.²⁰ Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.²¹

⁵ *Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁶ *NEC-Business Network Solutions, Inc.*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁷ 47 CFR 54.503, 54.504(a), 54.511(a).

⁸ *See id.* 54.503, 54.511(a); *see also* Universal Service Administrative Company, *Open & Fair Process*, <https://www.usac.org/e-rate/applicant-process/competitive-bidding/open-fair-process/> (last visited March 13, 2026).

⁹ 47 CFR 54.503, 54.511(a).

¹⁰ *Information*, *supra* note 2, at 4–5; *Sentencing Order*, *supra* note 1, at 1.

¹¹ *Information*, *supra* note 2, at 4.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 4–5.

¹⁵ *Id.* at 5.

¹⁶ *Sentencing Order*, *supra* note 1, at 2.

¹⁷ *United States v. Shawn Clemmons*, Case No. 2:10-cr-00226-EAS, Restitution Order (Oct. 17, 2024).

¹⁸ *Sentencing Order*, *supra* note 1, at 5.

¹⁹ 47 CFR 54.8(d); *see Second Report and Order*, *supra* note 4, at 9225–27, paras. 67–74.

²⁰ 47 CFR 54.8(a)(1), (d).

²¹ *Id.* 54.8(e)(1); *Second Report and Order*, *supra* note 4, at 9226, para. 69.

In accordance with the Commission's suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty calendar days of your receipt of this letter or publication of notice of the suspension in the Federal Register, whichever comes first.²² Such requests, however, will not ordinarily be granted.²³ The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.²⁴ The Bureau will decide any request to reverse or modify a suspension within ninety calendar days of its receipt of such request.²⁵

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from all federal universal service support mechanisms, including the E-Rate program, your conviction is cause for debarment as defined in section 54.8(c) of the Commission's rules.²⁶ Therefore, pursuant to section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁷

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²⁸ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety calendar days of receiving any information you may have filed.²⁹ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.³⁰

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to all federal universal service support mechanisms, including the E-Rate program, for three years from the date of debarment.³¹ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.³² Pursuant to the Commission's rules, should you choose to contest the scope or length of any such debarment, you must file arguments and any relevant documentation within thirty calendar days of receipt of this letter or the publication in the Federal Register of such proposed debarment, whichever is earlier.³³

Please direct any response as follows:

If sent by messenger or hand delivery, or by commercial overnight mail (other than U.S. Postal Service Priority Mail, Priority Mail Express, and Priority Mail), the response must be sent to Marlene H.

²² 47 CFR 54.8(e)(4).

²³ *Id.*

²⁴ *Id.* 54.8(f).

²⁵ *Id.* 54.8(e)(5), (f); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁶ "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." *Id.* 54.8(a)(1).

²⁷ *Id.* 54.8(b).

²⁸ *Id.* 54.8(e)(3); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁹ 47 CFR 54.8(e)(5); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

³⁰ 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. *Id.* 54.8(f).

³¹ 47 CFR 54.8(d), (g); *Second Report and Order*, *supra* note 4, at 9225, para. 67.

³² 47 CFR 54.8(g).

³³ *Id.* 54.8(e)(4).

Dortch, Secretary, Federal Communications Commission, to the attention of Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 9050 Junction Drive, Annapolis Junction, MD, 20701. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD, 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

If sent by First-Class Mail, Priority Mail Express, or Priority Mail, the response must be sent to Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

You must also transmit an electronic copy of the response and all Documents produced with the response via e-mail to IHDTelecom@fcc.gov. The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source. If you have any questions, please contact Jeffrey Brown at Jeffrey.Brown@fcc.gov or (202) 418-2527.

Sincerely,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

[FR Doc. 2026-07067 Filed 4-10-26; 8:45 am]

BILLING CODE 6712-01-C

FEDERAL COMMUNICATIONS COMMISSION

[DA 26-308; FR ID 340471]

Notice of Suspension and Commencement of Proposed Debarment Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the "Bureau") gives notice of the suspension of Donatus Anyanwu from the schools and libraries universal service support mechanism (or "E-Rate Program") and all universal service support mechanisms. Additionally, the Bureau gives notice that debarment proceedings are commencing against

Mr. Anyanwu, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation.

DATES: Opposition requests must be submitted within 30 days of receiving the suspension letter or by May 13, 2026, whichever comes first. The Bureau will decide on any opposition request within 90 days.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher

Sova may be contacted by phone at (202) 418-1868 or by email at Christopher.Sova@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspensions ensure that suspended parties cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 26-308, which was mailed to Mr. Anyanwu, and released on April 13, 2026. The complete text of the notice of suspension and initiation of debarment proceedings is available on the FCC's website at <https://docs.fcc.gov/public/attachments/DA-26-308A1.pdf>.

Federal Communications Commission.

Christopher Sova,
Chief, Investigations and Hearings Division,
Enforcement Bureau.

BILLING CODE 6712-01-P

**Federal Communications Commission**

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554
April 7, 2026

DA 26-308

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Donatus Anyanwu
c/o Vincent Eugene Wisely, Esq.
The Wiseley Law Firm PLLC
325 N. St. Paul, Ste. 3135
Dallas, TX 75201

**Re: Notice of Suspension and Initiation of Debarment Proceeding
File No. EB-IHD-25-00038523**

Dear Mr. Anyanwu:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) received notice of your conviction for conspiracy to commit mail and wire fraud, in violation of 18 U.S.C. §§ 371, 1341, and 1343, arising out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).¹ The crime involved knowingly conspiring with another to defraud the E-Rate program by using your co-conspirator's position as CEO of a Texas school, Nova Charter School (Nova), to select your company, ADI Engineering, Inc. (ADI), as the school's E-Rate provider.² Consequently, pursuant to 47 CFR § 54.8, this letter constitutes official notice of your suspension from the E-Rate program and all federal universal service support mechanisms.³ While suspended, you are prohibited from participating in or receiving any benefit associated with all federal universal service support mechanisms, including the E-Rate program. Additionally, in accordance with the Commission's rules, the Bureau is commencing a proceeding to debar you from future participation in all federal universal service support mechanisms for three years.⁴

¹ Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent sentencing in *United States v. Donatus Anyanwu*, Case No. 3:17-cr-00655-D, Judgment and Sentencing Order (N.D. Tex., issued Jan. 30, 2020) (*Sentencing Order*).

² *United States v. Donatus Anyanwu*, Case No. 3:17-cr-00655-D, Superseding Information, at 4 (N.D. Tex., Jul. 26, 2019) (*Information*).

³ 47 CFR 54.8. On March 26, 2026, new rules were adopted allowing the Commission to take quicker and more comprehensive action to exclude bad actors from participating in Congressionally-mandated funding programs, such as the E-Rate program. See *Modernizing Suspension & Debarment Rules*, GN Docket No. 19-309, Report & Order, Direct Final Rule, and Further Notice of Proposed Rulemaking, FCC 26-18 (Mar. 27, 2026).

⁴ 47 CFR 54.8; *Id.* 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (*Second Report and Order*) (adopting section 54.521 to suspend and debar parties from the E-Rate program). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms. See *Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410-12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁵ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure E-Rate funds are used for their intended purpose.⁶ Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.⁷ The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.⁸ Solicitations for E-Rate services must be based on fair and open competitive bidding, free from any conflicts of interest.⁹

You pleaded guilty to a mail and wire fraud conspiracy that involved knowingly and willingly devising a scheme to obtain money from the E-Rate program fraudulently.¹⁰ You and your co-conspirator caused Nova to choose ADI as its E-Rate service provider, even though ADI was not chosen through a fair and open competitive bidding process as required by E-Rate rules.¹¹ You and your co-conspirator made false representations to the Universal Service Administrative Company (USAC) to convince USAC’s agents that Nova’s selection of ADI complied with the E-Rate program rules, that ADI completed the E-Rate discount work for which it had been selected, and that Nova paid ADI the required 10% co-pay for its 90% E-Rate discount.¹² You and your co-conspirator produced fraudulent invoices used to induce USAC to pay ADI approximately \$337,951.06 in E-Rate discount funds for work that ADI was not entitled to perform and did not perform.¹³

In January 2020, the United States District Court for the Northern District of Texas sentenced you to thirty months in prison followed by two years of supervised release.¹⁴ The court also ordered you to pay \$337,951.06 in restitution and a \$100 special assessment fee.¹⁵

Pursuant to section 54.8(d) of the Commission’s rules,¹⁶ your conviction requires the Bureau to suspend you from: (a) participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program; and (b) participating in any activities associated with or related to all federal universal service support mechanisms.¹⁷ Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁸

In accordance with the Commission’s suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty calendar days of your receipt of this letter or publication of notice of the suspension in the Federal

⁵ *Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁶ *NEC-Business Network Solutions, Inc.*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁷ 47 CFR 54.503, 54.504(a), 54.511(a).

⁸ *See id.* 54.503, 54.511(a); *see also* Universal Service Administrative Company, *Open & Fair Process*, <https://www.usac.org/e-rate/applicant-process/competitive-bidding/open-fair-process/> (last visited March 11, 2026).

⁹ 47 CFR 54.503, 54.511(a).

¹⁰ *Information*, *supra* note 2, at 4; *Sentencing Order*, *supra* note 1, at 1.

¹¹ *Information*, *supra* note 2, at 4-5.

¹² *Id.* at 5.

¹³ *Id.* at 6.

¹⁴ *Sentencing Order*, *supra* note 1, at 2-3.

¹⁵ *Id.* at 6.

¹⁶ 47 CFR 54.8(d); *see Second Report and Order*, *supra* note 4, at 9225-27, paras. 67-74.

¹⁷ 47 CFR 54.8(a)(1), (d).

¹⁸ *Id.* 54.8(e)(1); *Second Report and Order*, *supra* note 4, at 9226, para. 69.

Register, whichever comes first.¹⁹ Such requests, however, will not ordinarily be granted.²⁰ The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.²¹ The Bureau will decide any request to reverse or modify a suspension within ninety calendar days of its receipt of such request.²²

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from all federal universal service support mechanisms, including the E-Rate program, your conviction is cause for debarment as defined in section 54.8(c) of the Commission's rules.²³ Therefore, pursuant to section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁴

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²⁵ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety calendar days of receiving any information you may have filed.²⁶ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²⁷

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to all federal universal service support mechanisms, including the E-Rate program, for three years from the date of debarment.²⁸ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.²⁹ Pursuant to the Commission's rules, should you choose to contest the scope or length of any such debarment, you must file arguments and any relevant documentation within thirty calendar days of receipt of this letter or the publication in the Federal Register of such proposed debarment, whichever is earlier.³⁰

Please direct any response as follows:

If sent by messenger or hand delivery, or by commercial overnight mail (other than U.S. Postal Service Priority Mail, Priority Mail Express, and Priority Mail), the response must be sent to Marlene H. Dortch, Secretary, Federal Communications Commission, to the attention of Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 9050 Junction Drive, Annapolis Junction, MD, 20701. Hand-delivered or messenger-delivered paper filings for

¹⁹ 47 CFR 54.8(e)(4).

²⁰ *Id.*

²¹ *Id.* 54.8(f).

²² *Id.* 54.8(e)(5), (f); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²³ "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." *Id.* 54.8(a)(1).

²⁴ *Id.* 54.8(b).

²⁵ *Id.* 54.8(e)(3); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁶ 47 CFR 54.8(e)(5); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁷ 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. *Id.* 54.8(f).

²⁸ 47 CFR 54.8(d), (g); *Second Report and Order*, *supra* note 4, at 9225, para. 67.

²⁹ 47 CFR 54.8(g).

³⁰ *Id.* 54.8(e)(4).

the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD, 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

If sent by First-Class Mail, Priority Mail Express, or Priority Mail, the response must be sent to Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

You must also transmit an electronic copy of the response and all Documents produced with the response via e-mail to IHDTelecom@fcc.gov. The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source. If you have any questions, please contact Jeffrey Brown at Jeffrey.Brown@fcc.gov or (202) 418-2527.

Sincerely,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

[FR Doc. 2026-07076 Filed 4-10-26; 8:45 am]

BILLING CODE 6712-01-C

FEDERAL COMMUNICATIONS COMMISSION

[DA 26-310; FR ID 340472]

Notice of Suspension and Commencement of Proposed Debarment Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the "Bureau") gives notice of the suspension of Mark Whitaker from the schools and libraries universal service support mechanism (or "E-Rate Program") and all universal service support mechanisms. Additionally, the Bureau gives notice that debarment proceedings are commencing against

Mr. Whitaker, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation.

DATES: Opposition requests must be submitted within 30 days of receiving the suspension letter or by May 13, 2026, whichever comes first. The Bureau will decide on any opposition request within 90 days.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher

Sova may be contacted by phone at (202) 418-1868 or by email at Christopher.Sova@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspensions ensure that suspended parties cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 26-310, which was mailed to Mr. Whitaker, and released on April 13, 2026. The complete text of the notice of suspension and initiation of debarment proceedings is available on the FCC's website at <https://docs.fcc.gov/public/attachments/DA-26-310A1.pdf>.

Federal Communications Commission.

Christopher Sova,

Chief, Investigations and Hearings Division, Enforcement Bureau.

BILLING CODE 6712-01-P

**Federal Communications Commission**

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

April 7, 2026

DA 26-310

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Mark Whitaker
c/o Leslie Ballin, Esq.
Ballin, Ballin & Fishman, PC
200 Jefferson Ave.
Memphis, TN 38103-2308

**Re: Notice of Suspension and Initiation of Debarment Proceeding
File No. EB-IHD-25-00038468**

Dear Mr. Whitaker:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) received notice of your conviction for misprision of a felony, specifically wire fraud, in violation of 18 U.S.C. §§ 4 and 1343, arising out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).¹ The crime involved failing to report the knowing transmission of materially false communications and documents to the federal government with the intent of defrauding the E-Rate program.² Consequently, pursuant to 47 CFR § 54.8, this letter constitutes official notice of your suspension from the E-Rate program and all federal universal service support mechanisms.³ While suspended, you are prohibited from participating in or receiving any benefit associated with all federal universal service support mechanisms, including the E-Rate program. Additionally, in accordance with the Commission's rules, the Bureau is commencing a proceeding to debar you from future participation in all federal universal service support mechanisms for three years.⁴

¹ Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent sentencing in *United States v. Mark Whitaker*, Case No. 2:20-cr-20052-MSN, Judgment and Sentencing Order (W.D. Tenn., issued June 6, 2023) (*Sentencing Order*).

² *United States v. Mark Whitaker*, Case No. 2:20-cr-20052-MSN, Information, at 1-4 (W.D. Tenn., Feb. 18, 2020) (*Information*).

³ 47 CFR 54.8. On March 26, 2026, new rules were adopted allowing the Commission to take quicker and more comprehensive action to exclude bad actors from participating in Congressionally-mandated funding programs, such as the E-Rate program. See *Modernizing Suspension & Debarment Rules*, GN Docket No. 19-309, Report & Order, Direct Final Rule, and Further Notice of Proposed Rulemaking, FCC 26-18 (Mar. 27, 2026).

⁴ 47 CFR 54.8; *Id.* 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (*Second Report and Order*) (adopting section 54.521 to suspend and debar parties from the E-Rate program). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms. See *Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410-12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁵ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure E-Rate funds are used for their intended purpose.⁶ Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.⁷ The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.⁸ Solicitations for E-Rate services must be based on fair and open competitive bidding, free from any conflicts of interest.⁹

You pleaded guilty to misprision of a felony, specifically having knowledge of, and concealing, wire fraud.¹⁰ Together with two other individuals, you knowingly transmitted materially false and fraudulent documents, including falsified invoices and a certification that no kickbacks had been paid, with the purpose of defrauding the E-Rate program.¹¹ Despite your knowledge of these acts, you failed to report them to a judge or other person with civil or military authority under the United States.¹²

In June 2023, the United States District Court for the Western District of Tennessee sentenced you to one year of probation.¹³ The court also ordered you to pay a \$100 special assessment fee.¹⁴

Pursuant to section 54.8(d) of the Commission’s rules,¹⁵ your conviction requires the Bureau to suspend you from: (a) participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program; and (b) participating in any activities associated with or related to all federal universal service support mechanisms.¹⁶ Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁷

In accordance with the Commission’s suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty calendar days of your receipt of this letter or publication of notice of the suspension in the Federal Register, whichever comes first.¹⁸ Such requests, however, will not ordinarily be granted.¹⁹ The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.²⁰ The Bureau will decide any request to reverse or modify a suspension within ninety calendar days of its receipt of such request.²¹

⁵ *Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁶ *NEC-Business Network Solutions, Inc.*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁷ 47 CFR 54.503, 54.504(a), 54.511(a).

⁸ See *id.* 54.503, 54.511(a); see also Universal Service Administrative Company, *Open & Fair Process*, <https://www.usac.org/e-rate/applicant-process/competitive-bidding/open-fair-process/> (last visited April 25, 2025).

⁹ 47 CFR 54.503, 54.511(a).

¹⁰ *Information*, *supra* note 2, at 1; *Sentencing Order*, *supra* note 1, at 1.

¹¹ *Information*, *supra* note 2, at 1–4.

¹² *Id.*

¹³ *Sentencing Order*, *supra* note 1, at 2.

¹⁴ *Id.* at 5.

¹⁵ 47 CFR 54.8(d); see *Second Report and Order*, *supra* note 4, at 9225–27, paras. 67–74.

¹⁶ 47 CFR 54.8(a)(1), (d).

¹⁷ *Id.* 54.8(e)(1); *Second Report and Order*, *supra* note 4, at 9226, para. 69.

¹⁸ 47 CFR 54.8(e)(4).

¹⁹ *Id.*

²⁰ *Id.* 54.8(f).

²¹ *Id.* 54.8(e)(5), (f); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from all federal universal service support mechanisms, including the E-Rate program, your conviction is cause for debarment as defined in section 54.8(c) of the Commission's rules.²² Therefore, pursuant to section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²³

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²⁴ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety calendar days of receiving any information you may have filed.²⁵ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²⁶

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to all federal universal service support mechanisms, including the E-Rate program, for three years from the date of debarment.²⁷ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.²⁸ Pursuant to the Commission's rules, should you choose to contest the scope or length of any such debarment, you must file arguments and any relevant documentation within thirty calendar days of receipt of this letter or the publication in the Federal Register of such proposed debarment, whichever is earlier.²⁹

Please direct any response as follows:

If sent by messenger or hand delivery, or by commercial overnight mail (other than U.S. Postal Service Priority Mail, Priority Mail Express, and Priority Mail), the response must be sent to Marlene H. Dortch, Secretary, Federal Communications Commission, to the attention of Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 9050 Junction Drive, Annapolis Junction, MD, 20701. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD, 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

If sent by First-Class Mail, Priority Mail Express, or Priority Mail, the response must be sent to Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

²² "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." *Id.* 54.8(a)(1).

²³ *Id.* 54.8(b).

²⁴ *Id.* 54.8(e)(3); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁵ 47 CFR 54.8(e)(5); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁶ 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. *Id.* 54.8(f).

²⁷ 47 CFR 54.8(d), (g); *Second Report and Order*, *supra* note 4, at 9225, para. 67.

²⁸ 47 CFR 54.8(g).

²⁹ *Id.* 54.8(e)(4).

You must also transmit an electronic copy of the response and all Documents produced with the response via e-mail to IHDElectcom@fcc.gov. The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source. If you have any questions, please contact Jeffrey Brown at Jeffrey.Brown@fcc.gov or (202) 418-2527.

Sincerely,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

[FR Doc. 2026-07077 Filed 4-10-26; 8:45 am]
BILLING CODE 6712-01-C

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0813, OMB 3060-0987; FR ID 340210]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it

displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 12, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0813.

Title: Section 9.10, Enhanced 911

Emergency Calling Systems.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other-for-profit and State, local and tribal governments.

Number of Respondents and Responses: 633 Respondents; 567 Responses.

Estimated Time per Response: 0.5–1 hours.

Frequency of Response: One-time third-party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i), 154(j), 154(o), 251(e), 303(b), 303(g), 303(r), 316, and 403.

Total Annual Burden: 527 hours.

Total Annual Cost: No Cost.

Needs and Uses: The information collection entailed in a Public Safety Answering Point (PSAP) request is necessary to initiate E911 service and serves as notice to the CMRS provider. The notification requirement on PSAPs will be used by the carriers to verify that wireless E911 calls are referred to PSAPs who have the technical capability to use the data to the caller's benefit. If the carrier challenges the validity of the request, the request will be deemed valid if the PSAP making the request provides the following information:

A. Cost Recovery. The PSAP must demonstrate that a mechanism is in place by which the PSAP will recover its costs of the facilities and equipment necessary to receive and utilize the E911 data elements;

B. Necessary Equipment. The PSAP must provide evidence that it has ordered the equipment necessary to receive and utilize the E911 data elements; and

C. Necessary Facilities. The PSAP must demonstrate that it has made a timely request to the appropriate local exchange carrier for the necessary trunking and other facilities to enable E911 data to be transmitted to the PSAP.

In the alternative, the PSAP may demonstrate that a funding mechanism is in place, that it is E911 capable using a Non-Call Path Associated Signaling technology, and that it has made a timely request to the appropriate LEC for the necessary ALI database upgrade.

OMB Control Number: 3060-0987.

Title: 911 Callback Capability; Non-initialized Handsets (47 CFR 9.10(o)(1)(i-iii), 9.10(o)(2)(i-iii)).

Form Number: Not applicable.

Type of Review: Extension without change of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 553 respondents; 225,553 responses.

Estimated Time per Response: 0.01076465 hour (range of 30 seconds for labeling each handset to one hour for each respondent's public education effort).

Frequency of Response: Third-party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 154, 160, 201, 251–254, 303, and 332 unless otherwise noted.

Total Annual Burden: 2,428 hours.

Total Annual Cost: None.

Needs and Uses: In 2003, the Commission modified 47 CFR 20.18(l) to further improve the ability of public safety answering points (PSAPs) to respond quickly and efficiently to calls for emergency assistance made from non-service initialized wireless mobile handsets. In 2019, 47 CFR 20.18 was renumbered as 47 CFR 9.10. Accordingly, we have updated the references to Section 20.18 with Section 9.10. See 84 FR 66716. Non-service-initialized wireless mobile handsets (non-initialized handsets) are not registered for service with any Commercial Mobile Radio Service (CMRS) licensee. A non-initialized handset lacks a dialable number, but is programmed to make outgoing 911 calls. The Commission addressed issues arising from the inability of a PSAP operator to call back a 911 caller who becomes disconnected when using a

non-service-initialized wireless handset. These requirements also apply to manufacturers of 911-only handsets that are manufactured after May 3, 2004.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–07068 Filed 4–10–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 26–307; FR ID 340470]

Notice of Suspension and Commencement of Proposed Debarment Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the Bureau) gives notice of the suspension of John Comito from the schools and libraries universal service support mechanism (or E-Rate Program) and all universal service support mechanisms. Additionally, the Bureau gives notice that debarment proceedings are commencing against Mr. Comito, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation.

DATES: Opposition requests must be submitted within 30 days of receiving the suspension letter or by May 13, 2026, whichever comes first. The Bureau will decide on any opposition request within 90 days.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher Sova may be contacted by phone at (202) 418–1868 or by email at Christopher.Sova@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspensions ensure that suspended parties cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 26–307, which was mailed to Mr. Comito, and released on April 13, 2026. The complete text of the notice of suspension and initiation of debarment proceedings is available on the FCC's website at <https://docs.fcc.gov/public/attachments/DA-26-307A1.pdf>.

Federal Communications Commission.

Christopher Sova,

Chief, Investigations and Hearings Division, Enforcement Bureau.

BILLING CODE 6712–01–P

**Federal Communications Commission**

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

April 7, 2026

DA 26-307

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. John Comito
c/o Michael F. Bachner, Esq.
Bachner & Associates, PC
111 Broadway, Suite 701
New York, NY 10006

**Re: Notice of Suspension and Initiation of Debarment Proceeding
File No. EB-IHD-25-00038518**

Dear Mr. Comito:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) received notice of your conviction for wire fraud, in violation of 18 U.S.C. § 1343, arising out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).¹ The crime involved knowingly and intentionally devising a scheme to defraud the Universal Service Administrative Company (USAC) and 26 schools in New York City in order to obtain money and property from them.² Consequently, pursuant to 47 CFR § 54.8, this letter constitutes official notice of your suspension from the E-Rate program and all federal universal service support mechanisms.³ While suspended, you are prohibited from participating in or receiving any benefit associated with all federal universal service support mechanisms, including the E-Rate program. Additionally, in accordance with the Commission's rules, the Bureau is commencing a proceeding to debar you from future participation in all federal universal service support mechanisms for three years.⁴

¹ Any further reference in this letter to "your conviction" refers to your guilty plea and subsequent sentencing in *United States v. John Comito*, Case No. 1:19-cr-00593-RRM-RLM, Judgment and Sentencing Order (E.D.N.Y., issued Apr. 7, 2021) (*Sentencing Order*).

² *United States v. John Comito*, Case No. 1:19-cr-00593-RRM-RLM, Indictment, at 7 (E.D.N.Y., filed Dec. 13, 2019) (*Indictment*).

³ 47 CFR 54.8. On March 26, 2026, new rules were adopted allowing the Commission to take quicker and more comprehensive action to exclude bad actors from participating in Congressionally-mandated funding programs, such as the E-Rate program. See *Modernizing Suspension & Debarment Rules*, GN Docket No. 19-309, Report & Order, Direct Final Rule, and Further Notice of Proposed Rulemaking, FCC 26-18 (Mar. 27, 2026).

⁴ 47 CFR 54.8; *Id.* 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (*Second Report and Order*) (adopting section 54.521 to suspend and debar parties from the E-Rate program). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms. See *Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410-12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁵ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure E-Rate funds are used for their intended purpose.⁶ Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.⁷ The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.⁸ Solicitations for E-Rate services must be based on fair and open competitive bidding, free from any conflicts of interest.⁹

You pleaded guilty to a mail and wire fraud conspiracy that involved knowingly and willingly devising a scheme to obtain money from the E-Rate program fraudulently.¹⁰ You and your company, AutoExec Computer Systems, Inc. (AutoExec), submitted fraudulent claims for reimbursement to USAC and a variety of schools in New York City (the Schools).¹¹ You and AutoExec contracted with the Schools to provide IT services and equipment through the E-Rate program at an agreed-upon cost.¹² However, the Schools did not receive thousands of dollars’ worth of equipment and services for which AutoExec billed them and USAC, and some Schools did not receive any equipment or services whatsoever.¹³ Nevertheless, you and AutoExec falsely certified, in writing, that AutoExec had complied with its obligations, which resulted in the E-Rate program and the Schools making payments to AutoExec.¹⁴ The funds received were deposited into AutoExec’s bank accounts, which you used to pay for personal expenses and transferred to yourself and others.¹⁵

In April 2021, the United States District Court for the Eastern District of New York sentenced you to five years of probation.¹⁶ The court also ordered you to pay \$505,402.66 in restitution, a fine of \$250,000, and a \$100 special assessment fee.¹⁷

Pursuant to section 54.8(d) of the Commission’s rules,¹⁸ your conviction requires the Bureau to suspend you from: (a) participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program; and (b) participating in any activities associated with or related to all federal universal service support mechanisms.¹⁹ Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.²⁰

⁵ *Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁶ *NEC-Business Network Solutions, Inc.*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁷ 47 CFR §§ 54.503, 54.504(a), 54.511(a).

⁸ *See id.* §§ 54.503, 54.511(a); *see also* Universal Service Administrative Company, *Open & Fair Process*, <https://www.usac.org/e-rate/applicant-process/competitive-bidding/open-fair-process/> (last visited March 12, 2026).

⁹ 47 CFR §§ 54.503, 54.511(a).

¹⁰ *Indictment*, *supra* note 2, at 7; *Sentencing Order*, *supra* note 1, at 1.

¹¹ *Indictment*, *supra* note 2, at 4.

¹² *Id.*

¹³ *Id.* at 4-5.

¹⁴ *Id.* at 5.

¹⁵ *Id.*

¹⁶ *Sentencing Order*, *supra* note 1, at 3.

¹⁷ *Id.* at 6.

¹⁸ 47 CFR 54.8(d); *see Second Report and Order*, *supra* note 4, at 9225–27, paras. 67–74.

¹⁹ 47 CFR 54.8(a)(1), (d).

²⁰ *Id.* 54.8(e)(1); *Second Report and Order*, *supra* note 4, at 9226, para. 69.

In accordance with the Commission's suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty calendar days of your receipt of this letter or publication of notice of the suspension in the Federal Register, whichever comes first.²¹ Such requests, however, will not ordinarily be granted.²² The Bureau may reverse or limit the scope of a suspension only upon a finding of extraordinary circumstances.²³ The Bureau will decide any request to reverse or modify a suspension within ninety calendar days of its receipt of such request.²⁴

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from all federal universal service support mechanisms, including the E-Rate program, your conviction is cause for debarment as defined in section 54.8(c) of the Commission's rules.²⁵ Therefore, pursuant to section 54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁶

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²⁷ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety calendar days of receiving any information you may have filed.²⁸ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²⁹

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to all federal universal service support mechanisms, including the E-Rate program, for three years from the date of debarment.³⁰ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.³¹ Pursuant to the Commission's rules, should you choose to contest the scope or length of any such debarment, you must file arguments and any relevant documentation within thirty calendar days of receipt of this letter or the publication in the Federal Register of such proposed debarment, whichever is earlier.³²

Please direct any response as follows:

If sent by messenger or hand delivery, or by commercial overnight mail (other than U.S. Postal Service Priority Mail, Priority Mail Express, and Priority Mail), the response must be sent to Marlene H.

²¹ 47 CFR 54.8(e)(4).

²² *Id.*

²³ *Id.* 54.8(f).

²⁴ *Id.* 54.8(e)(5), (f); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁵ "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." *Id.* 54.8(a)(1).

²⁶ *Id.* 54.8(b).

²⁷ *Id.* 54.8(e)(3); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁸ 47 CFR 54.8(e)(5); *Second Report and Order*, *supra* note 4, at 9226, para. 70.

²⁹ 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. *Id.* 54.8(f).

³⁰ 47 CFR 54.8(d), (g); *Second Report and Order*, *supra* note 4, at 9225, para. 67.

³¹ 47 CFR 54.8(g).

³² *Id.* 54.8(e)(4).

Dortch, Secretary, Federal Communications Commission, to the attention of Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 9050 Junction Drive, Annapolis Junction, MD, 20701. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD, 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

If sent by First-Class Mail, Priority Mail Express, or Priority Mail, the response must be sent to Christopher J. Sova, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.

You must also transmit an electronic copy of the response and all Documents produced with the response via e-mail to IHDTelecom@fcc.gov. The electronic copy shall be produced in a format that allows the Commission to access and use it, together with instructions and all other materials necessary to use or interpret the data, including record layouts, data dictionaries, and a description of the data's source. If you have any questions, please contact Jeffrey Brown at Jeffrey.Brown@fcc.gov or (202) 418-2527.

Sincerely,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

[FR Doc. 2026-07075 Filed 4-10-26; 8:45 am]

BILLING CODE 6712-01-C

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal

Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than April 28, 2026.

A. Federal Reserve Bank of Minneapolis (Mark Nagle, Assistant Vice President) 90 Hennepin Avenue,

Minneapolis, Minnesota 55480-0291. Comments can also be sent electronically to MA@mpls.frb.org:

1. *The Zachariah Spalj Escrow Trust, the Kalina Spalj Escrow Trust, the Megan Ritter Escrow Trust, the Joe Ritter Escrow Trust, and the Natalie Ritter Escrow Trust, John Ohlin, as trustee of all aforementioned trusts, all of Baxter, Minnesota; to become members of the Spalj Family Control Group, a group acting in concert, to acquire voting shares of Deerwood Bancshares, Inc., Baxter, Minnesota, and thereby indirectly acquire voting shares of Deerwood Bank, Waite Park, Minnesota. John Ohlin was previously permitted by the Federal Reserve System to acquire voting shares of Deerwood Bancshares, Inc., and to join the Spalj Family Control Group.*

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,
Associate Secretary of the Board.

[FR Doc. 2026-07116 Filed 4-10-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-P-2524]

Determination That BILTRICIDE (Praziquantel) Oral Tablet, 600 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that BILTRICIDE (praziquantel) oral tablet, 600 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993-0002, 301-796-8363, Stacy.Kane@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is known generally as the "Orange Book." Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or

ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

BILTRICIDE (praziquantel) oral tablet, 600 mg, is the subject of NDA 018714, held by Bayer Healthcare Pharmaceuticals, Inc., and initially approved on December 29, 1982. BILTRICIDE is indicated in patients aged 1 year and older for the treatment of the following infections:

- Schistosomiasis due to all species of schistosoma (for example, *Schistosoma mekongi*, *Schistosoma japonicum*, *Schistosoma mansoni*, and *Schistosoma hematobium*), and
- Clonorchiasis and Opisthorchiasis due to the liver flukes, *Clonorchis sinensis*/Opisthorchis viverrini (approval of this indication was based on studies in which the two species were not differentiated).

In a letter dated February 8, 2024, Bayer Healthcare Pharmaceuticals, Inc. notified FDA that BILTRICIDE (praziquantel) oral tablet, 600 mg, was being discontinued, and FDA moved the drug product to the "Discontinued Drug Product List" section of the Orange Book.

Novitium Pharma LLC submitted a citizen petition dated July 18, 2025 (Docket No. FDA-2025-P-2524), under 21 CFR 10.30, requesting that the Agency determine whether BILTRICIDE (praziquantel) oral tablet, 600 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that BILTRICIDE (praziquantel) oral tablet, 600 mg, was not withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that BILTRICIDE (praziquantel) oral tablet, 600 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of BILTRICIDE (praziquantel) oral tablet, 600 mg, from sale. We have also

independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list BILTRICIDE (praziquantel) oral tablet, 600 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. ANDAs that refer to this drug product may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-07059 Filed 4-10-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; HRSA AIDS Drug Assistance Program Data Report, OMB No. 0915-0345—Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than May 13, 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: HRSA AIDS Drug Assistance Program Data Report, OMB No. 0915–0345—Extension.

Abstract: HRSA’s Ryan White HIV/AIDS Program (RWHAP) AIDS Drug Assistance Program (ADAP) is authorized under Part B of the RWHAP statute, codified in sections 2611 to 2631 of the Public Health Service Act, which provides grants to U.S. states and territories. RWHAP Part B ADAP is a state- and territory-administered program that provides Food and Drug Administration-approved medications to low-income people with HIV. RWHAP Part B ADAP funds may also be used to purchase health care coverage for eligible clients and for services that

enhance access, adherence, and monitoring of drug treatments.

All 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the five U.S. Pacific Territories or Associated Jurisdictions receive RWHAP Part B grant awards, including funds for ADAP. HRSA RWHAP Part B ADAP requires the annual submission of an ADAP Data Report, which is composed of a Recipient Report and a Client Report. The Recipient Report is a collection of basic information about grant recipient characteristics and policies including program administration, purchasing mechanisms, funding, and expenditures. The Client Report is a collection of de-identified client-level records (one record for each client enrolled in RWHAP ADAP), which includes the client’s encrypted unique identifier, basic demographic data, enrollment and confirmation information, details on medication and/or health care coverage assistance received (including associated costs), and HIV clinical information.

HRSA is not proposing any changes to the collection, and there are no anticipated changes in the reporting burden.

A 60-day notice published in the **Federal Register** on January 30, 2026, vol. 91, No. 20; pp. 4085–86. There were no public comments.

Need and Proposed Use of the Information: The RWHAP statute specifies HRSA’s responsibilities in administering grant funds, allocating

funding, assessing HIV care outcomes (e.g., viral suppression), and serving priority populations. HRSA uses the ADAP Data Report to evaluate the national impact of RWHAP ADAP by providing de-identified client-level data on individuals being served, services being delivered, and costs associated with these services. The client-level data is used to assess the health outcomes of people with HIV receiving services through RWHAP ADAP, monitor the use of RWHAP ADAP funds in addressing the HIV epidemic and its impact on communities, and track progress toward achieving the goals identified in Ending the HIV Epidemic in the United States.

Likely Respondents: State ADAPs of RWHAP Part B recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Recipient Report	54	1	54	6	324
Client Report	54	1	54	81	4,374
Total	54		54		4,698

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–07083 Filed 4–10–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Emergency Medical Services for Children Data Center (EDC)

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Announcing period of performance extension with funding for EDC Award recipient.

SUMMARY: HRSA will provide additional funds to the University of Utah, Salt Lake City, Utah, the current EDC Program recipient, to extend the recipient’s current period of performance by 12 months. This extension is necessary to support continuity of operations that facilitate pediatric readiness national data collection activities in hospital emergency departments (ED) and prehospital emergency medical services (EMS) agencies throughout the country. The current performance period ends June 30, 2026.

FOR FURTHER INFORMATION CONTACT: Sara B. Kinsman, MD., Ph D., Director, Division of Child, Adolescence, and Family Health, at SKinsman@hrsa.gov or (240) 475–3712.

SUPPLEMENTARY INFORMATION:

- *Intended Recipient(s) of the Award:* University of Utah, Salt Lake City, Utah.
- *Amount of Competitive Award(s):* One award for \$1,600,000.
- *Project Period:* July 1, 2026, to June 30, 2027.

- *Assistance Listing (CFDA) Number:* 93.127.
- *Award Instrument:* Cooperative Agreement.
- *Authority:* 42 U.S.C. 300w–9 (Public Health Service Act, Title XIX, § 1910).

TABLE 1—RECIPIENT(S) AND AWARD AMOUNT(S)

Grant number	Award recipient name	City, state	Award amount
UJ5MC30824	UNIVERSITY OF UTAH	Salt Lake City, UT	\$1,600,000

Justification: The Emergency Medical Services for Children (EMSC) program funds demonstration projects to expand and improve emergency medical services for children who need treatment for trauma or critical care. The purpose of this program is to support activities that demonstrate expansion and improvement in the delivery of high-quality emergency services for all children throughout our nation by: (1) Providing independent, comprehensive research support for large multi-center randomized clinical trials and other types of clinical research conducted by and associated with the Pediatric Emergency Care Applied Research Network; (2) Enhancing and collecting performance measure data that align with the combined efforts of the EMSC State Partnership and the EMSC Innovation and Improvement Center to expand and improve EMSC in states/ jurisdictions; and (3) Collaborating with national partners to coordinate and support nationally representative data collection efforts to assess the expansion of prehospital and hospital pediatric readiness initiatives. The EDC was established in 2017 through a 4-year cooperative agreement. HRSA's Maternal and Child Health Bureau re-competed the program in 2022 for another 4 years. The current budget period ends on June 30, 2026. Renewal of this cooperative agreement will allow EDC to continue to assess pediatric readiness nationally during this upcoming extension period in both prehospital EMS and hospital emergency departments through the collection of data. HRSA will award \$1,600,000 to the existing EDC Program award recipient to continue operations as outlined in HRSA–22–087 Notice of Funding Opportunity.

Margaret M. Bush,

Deputy Administrator.

[FR Doc. 2026–07035 Filed 4–10–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, email the SAMHSA Reports Clearance Officer at samhsapra@samhsa.hhs.gov.

Project: SAMHSA Unified Performance Reporting Tool (SUPRT)—Project (P)—(OMB No. 0930–NEW)

The Substance Abuse and Mental Health Administration (SAMHSA) is the agency within the U.S. Department of Health and Human Services that leads public health efforts to advance the behavioral health of the nation. SAMHSA is seeking approval for the new SAMHSA Unified Performance Reporting Tool (SUPRT)—Project (P). The tool will replace the Center for Mental Health Services' (CMHS) Infrastructure Development, Prevention, and Mental Health Promotion (IPP) Indicators (included in #0930–0285) and will serve as a single tool to collect grant-level aggregate data on target goals and actual performance from CMHS, Center for Substance Abuse Treatment (CSAT), Center for Substance Abuse Prevention (CSAP), and 988 & Behavioral Health Crisis Coordinating Office (988) grant recipients. This notice informs the public of SAMHSA's intent to develop and implement a new streamlined performance tool that will allow SAMHSA to continue to meet reporting requirements mandated by the Government Performance Results Modernization Act (GPRMA) of 2010, reduce grantee reporting burden, and is projected to enhance the accuracy of the

collected performance data from CMHS, CSAT, CSAP, and 988 grantees.

SAMHSA will use the data collected through SUPRT–P for annual reporting required by GPRMA, grantee monitoring, and continuous improvement of its discretionary grant programs. The SUPRT–P will also align with and strengthen SAMHSA's complementary evaluation activities of its discretionary grant programs providing client services. The information collected through this process will allow SAMHSA to (1) monitor and report on implementation and overall performance of the associated grant programs; (2) advance SAMHSA's proposed performance goals; and (3) assess the accountability and performance of its discretionary grant programs, focused on efforts that promote mental health, prevent substance use, and provide treatments and supports to foster recovery.

The new SUPRT–P reflects diverse feedback SAMHSA obtained through multiple listening sessions conducted with key stakeholders, in addition to extensive deliberations conducted by different working groups within SAMHSA. Accordingly, SUPRT–P retains some prior questions, adds new questions, and deletes other questions from the IPP indicators and client-level performance reporting tools currently in use. The SUPRT–P will reduce client reporting burden and is projected to enhance the accuracy of the collected performance data from CMHS, CSAT, CSAP, and 988 grantees by streamlining questions; incorporating questions for mental health, substance use treatment and prevention, and 988 indicators in one tool; and including indicators to assess the accountability and performance of its discretionary grants. The SUPRT–P will track data associated with the following:

- Total Served and Demographics
- Awareness
- Outreach
- Prevention Activities and Education
- Screening, Assessment, and Testing
- Referral

- Access and Linkage to Care or Treatment
- Brief Intervention and Services
- Behavioral Health Crisis
- Training and Workforce Development
- Individual Outcomes

- Stakeholder Engagement
- Partnership/Collaboration
- Infrastructure Development, Prevention and Mental Health Promotion

- Quarterly Narratives: Progress Report Overview Updates

The chart below summarizes the annualized burden for this project.

SAMHSA tool	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage cost	Total cost
SUPRT-P	2,831	4	11,324	10	113,240	¹ \$25.82	\$2,923,856.8

¹ The hourly wage estimate is \$25.82 based on the Occupational Employment and Wages, Mean Hourly Wage rate for Substance Abuse, Behavioral Disorder, and Mental Health Counselors (<https://www.bls.gov>).

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.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2026–07089 Filed 4–10–26; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–NWRs–2026–0562;
OMB Control Number 1018–0162;
FXRS12610900000–267–FF09R24000]

Agency Information Collection Activities; Non-Federal Oil and Gas Operations on National Wildlife Refuge System Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an existing information collection without change.

DATES: Interested persons are invited to submit comments on or before June 12, 2026.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference Office of Management and Budget (OMB) Control No. “1018–0162” in the subject line of your comment):

- *Internet (preferred):* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–HQ–NWRs–2026–0562.

- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W); Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT:

Madonna L. Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at <https://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA; 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320, all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

1. Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

2. The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

3. Ways to enhance the quality, utility, and clarity of the information to be collected; and

4. How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The authority of the Service to regulate non-Federal oil and gas operations on National Wildlife Refuge System (NWRs) lands is broadly derived from the Property Clause of the U.S. Constitution (art. IV, Sec. 3), in carrying out the statutory mandates of the Secretary of the Interior, as delegated to the Service, to manage Federal lands and resources under the National Wildlife Refuge System Administration Act (NWRsAA; 16 U.S.C. 668dd *et seq.*), as amended by the National Wildlife Refuge System Improvement Act (NWRsIA), and to specifically manage species within the NWRs under the provisions of numerous statutes, the most notable of which are the Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*), the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), and the Fish and Wildlife Act of 1956 (FWA; 16 U.S.C. 742f).

The Service's regulations at 50 CFR, part 29, subpart D provide for the continued exercise of non-Federal oil and gas rights while avoiding or minimizing unnecessary impacts to national wildlife refuge resources and uses. Other land management agencies have regulations that address oil and gas development, including the Department of the Interior's National Park Service and Bureau of Land Management, and the U.S. Department of Agriculture's Forest Service. These agencies all require the submission of information similar to the information requested by the Service.

The collection of information is necessary for the Service to properly balance the exercise of non-Federal oil and gas rights within national wildlife refuge boundaries with the Service's responsibility to protect wildlife and habitat, water quality and quantity, wildlife-dependent recreational opportunities, and the health and safety of employees and visitors on NWRS lands.

The information collected under 50 CFR, part 29, subpart D, identifies the owner and operator (the owner and operator can be the same) and details how the operator may access and develop oil and gas resources. It also identifies the steps the operator intends to take to minimize any adverse impacts of operations on refuge resources and uses. No information is submitted unless the operator wishes to conduct oil and gas operations.

We use the information collected to (1) evaluate proposed operations; (2) ensure that all necessary mitigation measures are employed to protect national wildlife refuge resources and values; and (3) ensure compliance with all applicable laws and regulations, including the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and the NWRSAA, as amended by the NWRSIA, and to specifically manage species within the NWRS under the provisions of numerous statutes, the most notable of which are the MBTA, the ESA, the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), and the FWA.

1. *Preexisting Operations (§ 29.61)*—Within 90 days after the effective date of these regulations or after a boundary change or establishment of a new refuge unit, preexisting operators without a Service-issued permit must submit:

- Documentation of the right to operate within the refuge.
- Contact information (names, phone numbers, and addresses) of the primary company representative; the representative responsible for field

supervision; and the representative responsible for emergency response.

- Scaled map clearly delineating the existing area of operations.
- Documentation of the current operating methods, surface equipment, materials produced or used and monitoring methods.
- Copies of all plans and permits required by local, State, and Federal agencies.

2. *Temporary Access Permit Application (§ 29.71)*—We use Parts 1 and 2 of Form 3–2469, *Oil and Gas Operations—Special Use Permit*, as the application for a Temporary Access Permit. The operator must provide the information requested in Parts 1 and 2 of the form, including:

- Contact information (name, legal address, and telephone number) for the person(s) responsible for the overall management of the proposed operations.
- Documentation demonstrating the right to operate within the refuge.
- Name, legal address, telephone number, and qualifications of all specialists responsible for conducting the reconnaissance surveys.
- Brief description of the intended operation so that we can determine reconnaissance survey needs.
- Description of the survey methods used to identify natural and cultural resources.
- Location map (to-scale and determined by us to be acceptable) delineating the proposed reconnaissance survey area in relation to the refuge boundary and the proposed area of operations.
- Description of proposed means of access and routes for conducting the reconnaissance surveys.

3. *Accessing Oil And Gas Rights From a Non-Federal Surface Location (§ 29.80)*—We encourage operators to provide the Service (at least 60 calendar days prior to beginning operations): the names, telephone numbers, and addresses of the primary company representative, the representative responsible for field supervision, and the representative responsible for emergency response.

4. *Pre-application Meeting for Operations Permit (§ 29.91)*—Before applying for an Operations Permit, operators should participate in a pre-application meeting with the Service and provide:

- Documentation demonstrating the right to operate within the refuge.
- An overview of the proposed operation and timing.

5. *Operations Permit Application (§§ 29.94, 29.95, 29.96, and 29.97)*—We use Form 3–2469 as the application for an Operations Permit. All applicants

must provide the information requested in Parts 1, 3, 4, 8, 9, and 10, Form 3–2469, including:

A. *Part 1 (§ 29.94(a)–(b))*—

- Contact information (name, legal address, and telephone number) for the person(s) responsible for the overall management of the proposed operations.
- Documentation demonstrating the right to operate within the refuge.

B. *Part 3 (§ 29.94(c)–(f))*—

- Description of the natural features of the proposed area of operations such as: streams, lakes, ponds, wetlands (including estimated depths to the top and bottom of zones of usable water); topographic relief; and areas that the Service has indicated are sensitive.
- Locations of existing roads, trails, railroad tracks, pipeline rights-of-way, pads, and other disturbed areas.
- Locations of existing structures that the operations could affect, including buildings; pipelines; oil and gas wells, including both producing and plugged and abandoned wells; injection wells; freshwater wells; underground and overhead electrical lines; and other utility lines.

• Descriptions of the natural and cultural resource conditions from reconnaissance survey reports or other sources collected for the proposed area of operations, including baseline testing of soils, surface and ground waters within the area of operations that reasonably may be impacted by surface operations.

C. *Part 4 (§ 29.94(g)–(n))*—Location maps (to-scale and determined by the Service to be acceptable) that clearly identify:

- Proposed area of operations, existing conditions, and proposed new surface uses, including the boundaries of each of the oil and gas tracts in relation to the proposed operations and the relevant refuge boundary.
- Proposed access routes of new surface disturbances as determined by a location survey.
- Location of all support facilities, including those for transportation (e.g., vehicle parking areas, helicopter pads, etc.), sanitation, occupation, staging areas, fuel storage areas, refueling areas, loading docks, water supplies, and disposal facilities.
- Method and diagrams (including cross sections) of any proposed pad construction, road construction, cut-and-fill areas, and surface maintenance, including erosion control.

• Number and types of equipment and vehicles, including an estimate of vehicular round trips associated with the operation.

- Estimated timetable for the proposed operations, including any operational timing constraints.

- Type and extent of security measures proposed at the area of operation.

- Power sources and their transmission systems for the proposed operations.

- Types and quantities of all solid and liquid waste generated and the proposed methods of storage, handling, and disposal.

- Source, quantity, access route, and transportation/conveyance method for all water to be used in operations (including hydraulic fracturing), and estimates of any anticipated wastewater volumes generated (including flowback fluids from hydraulic fracturing operations and the proposed methods of storage, handling, and recycling or disposal).

D. Part 5 Geophysical Exploration (§ 29.95)—Applicants proposing geophysical exploration must also provide the information requested in Part 5 of Form 3–2469, including:

- Map showing the positions of each survey line including all source and receiver locations as determined by a locational survey, and shot point offset distances from wells, buildings, other infrastructure, cultural resources, and environmentally sensitive areas.

- Number of crews and numbers of workers in each crew.

- Description of the acquisition methods (including the procedures and specific equipment that will be used), and energy sources (e.g., explosives, vibroseis trucks, etc.).

- Description of methods of access along each survey line for personnel, materials, and equipment.

- List of all explosives, blasting equipment, chemicals, and fuels that will be used in the proposed operations, including a description of proposed disposal methods, transportation methods, safety measures, and storage facilities.

E. Part 6 Proposed Drilling Operations (§ 29.96)—Applicants proposing drilling operations must also provide the information requested in Part 6 of Form 3–2469, including:

- Description of well pad construction, including dimensions and cross sections of cut-and-fill areas and excavations for ditches, sumps, and spill control equipment or structures (including lined areas).

- Description of the drill rig and equipment layout, including rig components, fuel tanks, testing equipment, support facilities, storage areas, and all other well-site equipment and facilities.

- Description of type and characteristics of the proposed drilling mud systems.

- Description of the equipment, materials, and methods of surface operations associated with drilling, well casing and cementing, well control, well evaluation and testing, well completion, hydraulic fracturing or other well stimulation, and well plugging.

F. Part 7 Production Operations (§ 29.97)—Applicants proposing production operations must also provide the information requested in Part 7 of Form 3–2469, including:

- Dimensions and a to-scale layout of the well pad, clearly identifying well locations and noting partial reclamation areas; gathering, separation, metering, and storage equipment; electrical lines; fences; spill control equipment or structures including lined areas, artificial lift equipment, tank batteries, treating and separating vessels, secondary or enhanced recovery facilities, water disposal facilities, gas compression and/or injection facilities; metering points; sales point (if on lease); tanker pickup points; gas compressor, including size and type (if applicable); and any other well site equipment.

- General description of anticipated stimulations, servicing, and workovers.

- Description of the procedures and equipment used to maintain control of the well(s).

- Description of method and means used to transport produced oil and gas, including vehicular transport; flowline and gathering line construction and operation, pipe size, and operating pressure; cathodic protection methods; surface equipment use; surface equipment location; maintenance procedures; maintenance schedules; pressure detection methods; and shutdown procedures.

- Road and well pad maintenance plan, including equipment and materials to maintain the road surface and control erosion.

- Vegetation management plan for well sites, roads, pipeline corridors, and other disturbed surface areas, including control of noxious and invasive species.

- Stormwater management plan on the well site.

- Produced water storage and disposal plan.

- Description of the equipment, materials, and procedures proposed for well plugging.

G. Part 8 (§ 29.94(o))—

- Description of proposed steps to mitigate anticipated adverse environmental impacts on refuge resources and uses, including: refuge's land features, land uses, fish and wildlife, vegetation, soils, surface and

subsurface water resources, air quality, noise, lightscares, viewsheds, cultural resources, and economic environment.

- Description of any anticipated impacts that cannot be mitigated.

- Description of all alternatives considered that meet the criteria of technologically feasible, least-damaging methods of operations, as well as the costs and environmental effects of such alternatives.

H. Part 9 (§ 29.94(p))—

- For spill control and emergency preparedness plan, submit contact information (name, address, and telephone number) for the appropriate officials to be contacted by the Service in the event of a spill, fire, or accident, including the order in which the persons should be contacted.

- Notification procedures and steps taken to minimize damage in the event of spill, fire, or accident, including the order in which individuals should be contacted.

- Identification of contaminating or toxic substances used within the area of operations or expected to be encountered during operations.

- Trajectory analysis for potential spills that are not contained on location.

- Identification of abnormal pressure, temperature, toxic gases or substances, or other hazardous conditions at the area of operations or expected to be encountered during operations.

- Measures (e.g., procedures, facility design, equipment) to minimize risks to human health and safety, and the environment.

- Steps to prevent accumulations of oil or other materials deemed to be fire hazards from occurring in the vicinity of well locations and lease tanks.

- Equipment and methods for containment and cleanup of contaminating substances, including a description of the equipment available at the area of operations and equipment available from local contractors.

- Storm water drainage plan and actions intended to mitigate storm water runoff.

- Safety data sheets for each material that will be used or encountered during operations, including expected quantities maintained at the area of operations.

- Description of the emergency actions that will be taken in the event of injury or death to fish and wildlife or vegetation.

- Description of the emergency actions that will be taken in the event of accidents causing human injury.

- Contingency plans for conditions and emergencies other than spills, such as if the area of operations is located in areas prone to hurricanes, flooding, tornados, fires, or earthquakes.

I. Part 10 (§ 29.94(q)–(r))—

- Description of the specific equipment, materials, methods, and schedule that will be used to meet the operating standards for reclamation at § 29.117.

- Itemized list of the estimated costs that a third party would charge to complete reclamation.

J. Financial Assurance (§§ 29.103(b) and 29.150–29.154)—Before operations begin, operators must submit:

- Financial assurance in the amount specified by the Service and in accordance with the requirements of §§ 29.150 through 29.154.

- Proof of liability insurance with limits sufficient to cover injuries to persons or property caused by the operations.

K. Identification of Wells and Related Facilities (§ 29.119(b)(3))—Operators must identify wells and related facilities with a sign that must remain in place until the well is plugged and abandoned and related facilities are removed. Signs must be of durable construction, and the lettering must be legible and large enough to be read under normal conditions at a distance of at least 50 feet. Each sign must show the name of the well, name of the operator, and the emergency contact phone number.

L. Reporting (§ 29.121)—Third-party monitors will report directly to the Service regarding compliance with the operations permit and efforts to protect federally owned or administered lands, waters, or the resources of refuges, visitor uses and experiences, and visitor or employee health and safety.

- Operators must notify the Service within 24 hours of any injuries to or mortality of fish, wildlife, or endangered or threatened plants.

- Operators must notify the Service of any accidents involving serious personal injury or death and of any fires or spills on the site immediately after the accident occurs. A written report on the accident must be submitted to the Service within 90 days after the accident occurs.

- Operators must submit reports or other information necessary to verify compliance with the permit or with any provision of subpart D of the regulations.

- If operations include hydraulic fracturing, the operator must provide a report including:

The true vertical depth of the well,
Total water volume used, and
A description of the base fluid and each additive in the hydraulic fracturing fluid, including the trade name, supplier, purpose, ingredients, Chemical Abstract Service Number

(CAS), maximum ingredient concentration in additive (percent by mass), and maximum ingredient concentration in hydraulic fracturing fluid (percent by mass).

M. Permit Modifications

(§ 29.160(a))—To request a modification to operations under an approved permit, permittees must provide, in writing, to the Service, the operator's assigned permit number, a description of the proposed modification, and an explanation of why the modification is needed.

N. Transferring Operator's Notifications (§ 29.170)—Operators conducting operations under § 29.44, must notify the Service in writing within 30 calendar days from the date the new operator acquires the rights to conduct operations. Written notification must include:

- Names and addresses of the person or entity conveying the right and of the person or entity acquiring the right.
- Effective date of transfer.
- Description of the rights, assets, and liabilities being transferred and which ones, if any, are being reserved.

- A written acknowledgement from the new operator that the contents of the notification are true and correct.

O. Acquiring Operator's Requirements for Wells Not Under a Service Permit (§ 29.171(a))—The transferee must provide to the Service within 30 calendar days from the date of the transfer:

- Documentation demonstrating that it holds the right to operate within the refuge.
- Names, phone numbers, and addresses of the primary company representative, the representative responsible for field supervision, and the representative responsible for emergency response.

The transferee must submit an operations permit application in compliance with §§ 29.90–97 within 90 calendar days from the date of the transfer. Since production operations are in place, the scope of information requirements would be limited and focused on relevant information requirements listed above for Parts 7, 8, 9, and 10.

P. Acquiring Operator's Acceptance of an Existing Permit (§ 29.171(b))—The transferee must provide the following within 30 days of commencing operations:

- Documentation demonstrating that it holds the right to operate within the refuge.
- Names, phone numbers, and addresses of the primary company representative; the representative

responsible for field supervision; and the representative responsible for emergency response.

- Written agreement to conduct operations in accordance with all terms and conditions of the previous operator's permit.

- Financial assurance that is acceptable to the Service and made payable to the Service.

Q. Extension to Well Plugging Requirement (§ 29.181)—To maintain a well in a shut-in status for up to 5 years, operators may apply for either an operations permit or a modification to operations under an approved permit. The application or modification must include the information requested in Form 3–2469, including:

- Explanation of why the well is shut-in or temporarily abandoned and future plans for utilization.
- Demonstration of the mechanical integrity of the well.
- Description of the manner in which the operator's well, equipment, and area of operations will be maintained in accordance with the standards in subpart D of the regulations.

R. Public Information (§ 29.210)—(1) An operator, or the operator and the owner of the information required under this subpart, may support a claim to be exempt from public disclosure of information otherwise required. If required information is withheld, the operator must submit an affidavit § 29.210(d) that:

- Identifies the owner of the withheld information and provides the name, address, and contact information for an authorized representative of the owner of the information.
- Identifies the Federal statute or regulation that would prohibit the Service from publicly disclosing the information if it were in the Service's possession.
- Affirms that the operator has been provided the withheld information from the owner of the information and is maintaining records of the withheld information, or that the operator has access and will maintain access to the information held by the owner of the information.
- Affirms that the information is not publicly available.
- Affirms that the information is not required to be publicly disclosed under any applicable local, State, or Federal law.
- Affirms that the owner of the information is in actual competition and identifies competitors or others that could use the withheld information to cause the owner substantial competitive harm.

- Affirms that the release of the information would likely cause substantial competitive harm to the owner and provides the factual basis for that affirmation.

- Affirms that the information is not readily apparent through reverse engineering with publicly available information.

(2) If the operator relies upon information from third parties, such as the owner of the withheld information, to make the previous affirmations, the operator must provide a written affidavit from the third party that sets forth the relied-upon information (§ 29.210(e)).

(3) We may require any operator to submit any withheld information and any information relevant to a claim that withheld information is exempt from public disclosure (§ 29.210(f)).

(4) The operator must maintain records of any withheld information until the latter of the Service's release of the operator's financial assurance or 7 years after completion of operations on refuge lands (§ 29.210(h)).

(5) If any of the chemical identity information required in this subpart is withheld, the operator must provide the generic chemical name in the submission required. The generic chemical name must be only as nonspecific as is necessary to protect the confidential chemical identity, and should be the same as or no less descriptive than the generic chemical name provided to the Environmental Protection Agency (§ 29.210(i)).

The public may request a copy of Form 3–2469 associated with this collection by sending a request to the Service Information Collection

Clearance Officer (see **ADDRESSES**, above).

Title of Collection: Non-Federal Oil and Gas Operations on National Wildlife Refuge System Lands, 50 CFR 29, Subpart D.

OMB Control Number: 1018–0162.

Form Number: Form 3–2469.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Businesses that conduct oil and gas exploration on national wildlife refuges.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: \$2,250,000 (associated with financial assurances).

Activity/requirement	Estimated number of annual responses	Completion time per response (hours)	Estimated total annual burden hours
Preexisting Operations (§ 29.61)	40	50	2,000
Temporary Access Permit Application (§ 29.71) <i>Hard Copy</i>	18	17	306
Temporary Access Permit Application (§ 29.71) <i>ePermits</i>	18	12.75	230
Accessing Oil and Gas Rights from Non-Federal Surface Location (§ 29.80)	5	1	5
Pre-application Meeting for Operations Permit (§ 29.91)	45	2	90
Operations Permit Application (§§ 29.94–29.97) <i>Hard Copy</i>	23	140	3,220
Operations Permit Application (§§ 29.94–29.97) <i>ePermits</i>	23	105	2,415
Financial Assurance (§§ 29.103(b), 29.150)	45	1	45
Identification of Wells and Related Facilities (§ 29.119(b))	45	2	90
Reporting (§ 29.121):			
Third-Party Monitor Report (§ 29.121(b))	300	17	5,100
Notification—Injuries/Mortality to Fish and Wildlife and Threatened/Endangered Plants (§ 29.121(c))	20	1	20
Notification—Accidents Involving Serious Injuries/Death and Fires/Spills (§ 29.121(d))	20	1	20
Written Report—Accidents Involving Serious Injuries/Deaths and Fires/Spills (§ 29.121(d))	20	16	320
Report—Verify Compliance with Permits (§ 29.121(e))	240	4	960
Permit Modifications (§ 29.160(a))	10	16	160
Notification—Chemical Disclosure of Hydraulic Fracturing Fluids uploaded to FracFocus (§ 29.121(f))	5	1	5
Change of Operator § 29.170:			
Transferring Operator Notification (§ 29.170)	20	8	160
Extension to Well Plugging (§ 29.181(a)):			
Application for Permit <i>Hard Copy</i>	5	140	700
Application for Permit <i>ePermits</i>	5	105	525
Modification <i>Hard Copy</i>	3	16	48
Modification <i>ePermits</i>	3	12	36
Acquiring Operator's Requirements for Wells Not Under a Service Permit (§ 29.171(a)) <i>Hard Copy</i>	10	40	400
Acquiring Operator's Requirements for Wells Not Under a Service Permit (§ 29.171(a)) <i>ePermits</i>	10	30	300
Acquiring Operator's Acceptance of an Existing Permit (§ 29.171(b))	1	8	8
Public Information (§ 29.210):			
Affidavit in Support of Claim of Confidentiality (§ 29.210(c) and (d))	1	1	1
Confidential Information (§ 29.210(e) and (f))	1	1	1
Maintenance of Confidential Information (§ 29.210(h))	1	1	1
Generic Chemical Name Disclosure (§ 29.210(i))	1	1	1
Totals	938		17,167

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2026-07078 Filed 4-10-26; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-ES-2026-1058; OMB Control Number 1018-0194; FXES111609M0000-267-FF09420000]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Approval Procedures for Incidental Harassment Authorizations of Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection without change.

DATES: Interested persons are invited to submit comments on or before May 13, 2026. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. 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: Written comments and recommendations for the proposed information collection should be sent 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. Please provide a copy of your comments on the information collection request (ICR) by one of the following methods (please reference 1018-0194 in the subject line of your comments):

- **Electronic submission:** Federal eRulemaking Portal at: <https://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2026-1058, which is the docket number for this action.

Then click the Search button. On the resulting page, you may submit a comment by clicking on “Comment.” Please ensure that you have found the correct document before submitting your comments.

- **U.S. mail:** Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Attn: Docket No. FWS-HQ-ES-2026-1058, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041-3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered. We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT:

Madonna L. Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 468-8211. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA; 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

On December 15, 2025, we published in the **Federal Register** (90 FR 58047) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on February 13, 2026. We also published the **Federal Register** notice on [Regulations.gov](https://www.regulations.gov) (Docket No. FWS-HQ-ES-2025-0613). We received

the following comment in response to that notice:

Comment 1: Anonymous electronic comment (FWS-HQ-ES-2025-0613-0002) received February 9, 2026. The commenter encouraged the Service to protect marine mammals from destruction.

Agency Response to Comment 1: The commenter did not address the information collection requirements; therefore, no response is required.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of response).

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Abstract: Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361 *et seq.*) authorizes the Secretary of the Interior

(Secretary) to allow, upon request, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specific geographic region for periods of not more than 1 year. The Service may authorize incidental take by harassment if statutory and regulatory procedures are followed and the Service finds: (i) take is of a small number of marine mammals of a species or stock, (ii) take will have a negligible impact on the species or stock, and (iii) take will not have an unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses by Alaska Natives.

The term “take” means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill, any marine mammal. Harassment means any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA defines this as “Level A harassment”), or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (the MMPA defines this as “Level B harassment”).

The terms “negligible impact,” “small numbers,” and “unmitigable adverse impact” are defined in 50 CFR 18.27 (i.e., the Service’s regulations governing small takes of marine mammals incidental to specified activities). “Negligible impact” is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. “Unmitigable adverse impact” means an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The term “small numbers” is also defined in 50 CFR 18.27. However, we do not rely on that definition here as it conflates “small numbers” with “negligible impacts.” We recognize “small numbers” and “negligible

impact” as separate and distinct considerations when reviewing requests for incidental harassment authorizations (IHA) under the MMPA (see *Natural Res. Def. Council, Inc. v. Evans*, 232 F. Supp. 2d 1003, 1025 (N.D. Cal. 2003)). Instead, for our small numbers determination, we estimate the likely number of takes of marine mammals and evaluate if that take is small relative to the size of the species or stock.

The term “least practicable adverse impact” is not defined in the MMPA or its enacting regulations. The Service ensures the least practicable adverse impact through mitigation measures that are effective in reducing the impact of project activities but are not so restrictive as to make project activities unduly burdensome or impossible to undertake and complete.

If the requisite findings are made, the Service issues an IHA, which may set forth the following: (i) Permissible methods of taking; (ii) other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for subsistence uses by coastal dwelling Alaska Natives (if applicable); and (iii) requirements for monitoring and reporting such take by harassment.

Applicants seeking to conduct activities may request an IHA for the specified activity. If the IHA is issued, the applicants must submit on-site monitoring reports and a final report of the activity to the Secretary.

This is a non-form collection. Applicants seeking an IHA must submit the following information to the Service as part of the IHA application process, which is also described in the regulations at 50 CFR 18.27:

- Describe the specific activity or class of activities that can be expected to result in incidental taking of marine mammals, and

- Provide the dates and duration of such activity and the specific geographical region where it will occur.

- Based on the best available scientific information, each applicant must also:

- Estimate the species and numbers of marine mammals likely to be taken, by age, sex, and reproductive conditions, and the type of taking (e.g., disturbance by underwater sound, disturbance by aircraft, injury, etc.) and the number of times such taking is likely to occur;

- Describe the status, distribution, and seasonal distribution (when applicable) of the species or stocks likely to be affected by such activities;

- Describe the anticipated impacts of an activity upon the species or stocks;

- Discuss the anticipated impact of the activity on the availability of the species or stocks for subsistence uses;

- Discuss the anticipated impact of the activity upon the habitat of the marine mammal populations and the likelihood of restoration of the affected habitat;

- Describe the anticipated impact of the loss or modification of the habitat on the marine mammal population involved;

- Describe availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and, where relevant, on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

- Discuss the suggested means of accomplishing the necessary monitoring and reporting which will result in increased knowledge of the species through an analysis of the level of taking or impacts, and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity; and

- Suggest means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking from such specified activities, and evaluating their effects.

The Service uses the information to draft the proposed IHA, including proposed determinations and mitigation measures to ensure the least practicable adverse impacts on the species or stock and its habitat. Upon IHA issuance, applicants must submit monitoring and final reports indicating the nature and extent of all takes of marine mammals that occurred incidentally to the specified activity. The purpose of monitoring requirements is to assess the effects of project activities on the species or stock, ensure that take is consistent with that anticipated in the negligible impact and subsistence use analyses, and detect any unanticipated effects on the species or stock. Because the length of project activities varies by project (a few weeks to months), some projects require weekly reports during project activities.

OMB previously approved information collection requirements associated with incidental take regulations (ITRs) and letters of authorization (LOAs) contained in 50 CFR 18, subparts J (Beaufort Sea) and L

(Gulf of Alaska) under OMB Control Number 1018–0070. Because the ITRs and associated LOAs authorize specific entities to incidentally take marine mammals while engaged in specified activities within a specific geographic region for periods of not more than 5 years, the Service maintains a separate OMB control number for information collection requirements associated with IHAs.

Title of Collection: Approval Procedures for Incidental Harassment Authorizations of Marine Mammals.

OMB Control Number: 1018–0194.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Private sector and State/local/Tribal government.

Total Estimated Number of Annual Respondents: 15.

Total Estimated Number of Annual Responses: 56.

Estimated Completion Time per Response: Varies from 10 hours to 120 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,680.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2026–07095 Filed 4–10–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516, #0259–014–004–12522; LLWY]

Realty Action: Direct Sale of Public Lands in Converse County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes a non-competitive (direct) sale of nine parcels of BLM-managed public lands in Wyoming to resolve some of the land jurisdiction patterns found in the Casper Field Office as well as the uneconomic management of these public lands due to private property surrounding the isolated parcels and lack of public access. The parcels, located in Converse

County, contain an aggregate of 800 acres and, if approved, would be sold to Kristi Bohlander. The sale would be subject to the applicable provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and BLM land sale regulations. The surface estate would be sold for no less than the appraised fair market value of \$540,000.

DATES: Interested parties must submit written comments, postmarked, or delivered no later than May 28, 2026.

The land would not be offered for sale until after June 12, 2026.

ADDRESSES: Mail written comments to Larry Sandoval, Field Manager, BLM Casper Field Office, 2987 Prospector Dr., Casper, WY 82604. Comments may also be emailed to BLM_WY_Casper_WYMail@blm.gov.

FOR FURTHER INFORMATION CONTACT:

Amelia Savage, Acting Assistant Field Manager, BLM Casper Field Office, phone: 307–261–7541, or email: alsavage@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 BLM will consider a direct sale in accordance with applicable provisions of section 203 of the FLPMA (43 U.S.C. 1713) and BLM land sale regulations.

Sixth Principal Meridian, Wyoming

T. 39 N., R. 74 W.,
 sec. 1, SE $\frac{1}{4}$;
 sec. 2, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 sec. 3, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 sec. 4, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and
 NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 sec. 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 40 N., R. 74 W.,
 sec. 33, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 sec. 34, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and
 SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described contain 800 acres, according to the official plat of the survey of the said land on file with the BLM.

There is known mineral value in the parcels; therefore, the mineral estate would not be conveyed in accordance with section 209 of FLPMA. The mineral estate will remain in Federal ownership. The proposed sale is in conformance with the BLM Casper Resource Management Plan approved in

July 2007. The BLM prepared a parcel-specific Environmental Assessment (EA), document number DOI–BLM–WY–P060–2025–0010–EA, in connection with this realty action. It can be viewed online at <https://eplanning.blm.gov/eplanning-ui/project/2035724/510>.

Regulations at 43 CFR 2710.0–3(a) and 43 CFR 2711.3–3(a) authorize the BLM to utilize a direct sale of public land when a competitive sale is not appropriate, such as when the lands offered for sale are surrounded by lands in private ownership with no public access. The BLM parcels are adjacent to the property of Mrs. Kristi Bohlander, who controls the access to the public land. Additionally, the only other adjacent private landowner has provided a written waiver of interest to the sale of these parcels. The subject parcels have been determined to meet FLPMA section 203(a) sale criteria. The parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal department or agency.

Pursuant to the requirements of 43 CFR 2711.1–2(d), publication of this notice in the **Federal Register** will segregate the land from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Until completion or rejection of the sale, the BLM will no longer accept land use applications affecting the public land. The effect of this segregation will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or 2 years after the date of publication in the **Federal Register**, unless extended by the BLM Wyoming State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The BLM will publish this notice in *The Casper Star-Tribune* newspaper once a week for 3 consecutive weeks.

The conveyance document, if issued, will include the following terms, conditions, and reservations:

1. A reservation to the United States for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals in the lands, including, without limitation, substances subject to disposition under the general mining laws, the Mineral Leasing Act, the Materials Act and the Geothermal Steam Act, and to the United States, its permittees, licensees, lessees, and mining claimants, the right to prospect for, mine, and remove the minerals owned by, acquired by, or vested in the United States under

applicable law and such regulations as the Secretary of the Interior may prescribe. This includes necessary ingress and egress rights and the right to conduct all necessary and incidental activities authorized under law and implementing regulations.

Unless otherwise provided by separate agreement with the surface owner, permittees, licensees, and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against mining claimants, permittees, licenses, and lessees of the United States; and the United States shall not be liable for the acts or omissions of its mining claimants, permittees, licenses or lessees.

3. Subject to those rights for buried telephone line purposes granted to Qwest Corp., its successors and assigns, by right-of-way no. WYWY105995655, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

4. Subject to those rights for tank facility granted to Continental Resources, Inc., its successors and assigns, by right-of-way no. WYWY106380553, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

5. Subject to those rights for an access road granted to Continental Resources, Inc., its successors and assigns, by right-of-way no. WYWY105994400, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

6. Subject to those rights for an oil and gas pipeline granted to WES Powder River Holdings LLC., its successors and assigns, by right-of-way no. WYWY106165967, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

7. Subject to those rights for an oil and gas pipeline granted to Bridger Pipeline LLC. its successors and assigns, by right-of-way no. WYWY105995114, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

8. Subject to those rights for an oil and gas pipeline granted to Tallgrass Midstream Gathering LLC. its successors and assigns, by right-of-way no. WYWY106193689, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

9. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented land.

10. Valid existing rights issued prior to conveyance.

The BLM will make available the reports pertaining to the land, which

include an EA, appraisal, map, environmental site assessment, and mineral potential report, for review at the Casper Field Office, 2987 Prospector Dr., Casper, WY, 82604. Interested parties may submit, in writing, any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the parcels, at the address listed in the **ADDRESSES** section by the deadline listed in the **DATES** section.

The land is suitable for direct sale under FLPMA, without competition, consistent with 43 CFR 2711.3–3(a)(4), as direct sales may be used “when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale,” including when “the adjoining ownership pattern and access indicate a direct sale is appropriate.” The BLM Wyoming State Director will review adverse comments regarding the parcels and may sustain, vacate, or modify this realty action, in-whole or in-part. In the absence of timely objections, this realty action will become the final determination of the Department of the Interior.

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us, in your comment, to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2711.1–2 and 43 CFR 2711.3–3)

Tanya Thrift,

BLM Wyoming State Director (Acting).

[FR Doc. 2026–07117 Filed 4–10–26; 8:45 am]

BILLING CODE 4331–26–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Coated Confectionery Products and Components Thereof, DN 3900*; the Commission is soliciting

comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Promotion in Motion, Inc. on April 8, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain coated confectionery products and components thereof. The complaint names as respondents: Cibo Vita, Inc. of Totowa, NJ; Cibo Vita Founders, Inc. of Wilmington, DE; New Cibo Vita, LLC of Wilmington, DE; and AnaBio Technologies, LTD., of Ireland. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United

States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3900") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the

Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 9, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-07074 Filed 4-10-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1497]

Certain Screen Protectors, Application Systems for Use Therewith, and Components Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 9, 2026, under section 337 of the Tariff Act of 1930, as amended, on behalf of Belkin International, Inc. of El Segundo, California. A supplement was filed on March 13, 2026. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain screen protectors, application systems for use therewith, and components thereof by reason of infringement of certain claims of U.S. Patent No. 10,675,817 ("the '817 patent"), U.S. Patent No. 10,782,746 ("the '746 patent"), and U.S. Patent No. 11,772,320 ("the '320 patent"). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Susan Orndoff, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2025).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 8, 2026, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–19 of the '817 patent; claims 1–20 of the '746 patent; and claims 1–18 of the '320 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “screen protectors for mobile phones, smartwatches, and tablet computers, as well as the application systems for those screen protectors, consisting of the trays that hold the mobile phones, smartwatches, and tablet computers during application of the screen protectors and the films, tabs, and screen protectors that are used during the application process”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Belkin International, Inc., 555 S. Aviation Blvd., Suite 180, El Segundo, California 90245

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Superior Communications, Inc., 5027 Irwindale Avenue, Suite 900, Irwindale, California 91706

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in

accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 9, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–07073 Filed 4–10–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1782–1785 (Preliminary)]

Polytetramethylene Ether Glycol (PTMEG) From China, South Korea, Taiwan, and Vietnam; Institution of Antidumping Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping duty investigation Nos. 731–TA–1782–1785 (Preliminary) pursuant to the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of polytetramethylene ether glycol (“PTMEG”) from China,

South Korea, Taiwan, and Vietnam, provided for in subheadings 3907.29.00 and 2932.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by May 26, 2026. The Commission's views must be transmitted to Commerce within five business days thereafter, or by June 2, 2026.

DATES: April 8, 2026.

FOR FURTHER INFORMATION CONTACT:

Calvin Chang ((202–205–3062), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to a petition filed on April 8, 2026, by BASF Corporation, Florham Park, New Jersey.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons,

or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on Wednesday, April 29, 2026. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before noon on Monday, April 27, 2026. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission's Public Calendar (Calendar (USITC) | United States International Trade Commission). A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before 5:15 p.m. on May 4, 2026, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than 4:00 p.m. on April 28, 2026. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions

that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: April 9, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-07072 Filed 4-10-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1482]

Certain Processed Slabs and Methods for Making Same; Notice of a Commission Determination Not To Review an Initial Determination Granting a Motion To Intervene

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 9) of the presiding administrative law judge ("ALJ") granting a motion to intervene as a respondent filed by non-party C&C North America, Inc. d/b/a Cosentino North America ("Cosentino").

FOR FURTHER INFORMATION CONTACT: Namo Kim, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3459. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 27, 2026, based on a complaint filed by Cambria Company LLC of Belle Plaine, Minnesota ("Cambria"). 91 FR 3539-40 (Jan. 27, 2026). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, or the sale within the United States of certain processed slabs and methods for making same by reason of the infringement of certain claims of U.S. Patent Nos. 10,195,762; 10,252,440; and 12,370,718. The complaint, as supplemented, further alleges that a domestic industry exists in the United States. *Id.* The Commission's notice of investigation names the following as respondents: Architectural Surfaces Group LLC of Spicewood, Texas; Arizona Tile, LLC of Tempe,

Arizona; Caesarstone Ltd. of Kibbutz Sdot-Yam, Israel; Caesarstone USA, Inc. of Charlotte, North Carolina; Dal-Tile, LLC of Dallas, Texas; LX Hausys, Ltd. of Seoul, Republic of Korea; LX Hausys America, Inc. of Alpharetta, Georgia; Mohawk Industries, Inc. of Calhoun, Georgia; M S International Inc. d/b/a MSI of Orange, California; OHM International Inc. of Monroe Township, New Jersey; and Surface Warehouse, L.P. d/b/a US Surfaces and d/b/a Vadara Quartz Surfaces of Austin, Texas (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations (“OUII”) is also participating in the investigation. *Id.*

On March 6, 2026, Cosentino filed a motion to intervene as a respondent, arguing that certain processed slab products sold by Cosentino could be subject to a general exclusion order requested by Cambria, and that disposition without Cosentino may impair or impede its ability to protect its interests in its products. Cosentino also represented that Respondents do not oppose the motion.

On March 18, 2026, OUII filed a response supporting Cosentino’s motion to intervene. On the same day, Cambria also filed a response stating that it does not oppose Cosentino’s motion, provided that such intervention will not delay the target date or the procedural schedule of the investigation.

On March 19, 2026, the ALJ issued the subject ID (Order No. 9) pursuant to Commission Rule 210.19, 19 CFR 210.19, granting Cosentino’s motion to intervene as a respondent. The ID finds that the Commission looks to Federal Rule of Civil Procedure 24 when considering a motion to intervene, and every factor in Rule 24 favors granting the motion. That is, (1) Cosentino filed its motion early in discovery; (2) Cosentino has an interest in the subject of the investigation because its products could be subject to a general exclusion order; (3) disposition without Cosentino may impair or impede its ability to protect its interests regarding its products; (4) Cosentino is not adequately represented by any other party because it is the sole U.S. distributor for its products and thus no other party will present noninfringement defenses for its products; and (5) there is no evidence that intervention will unduly delay or prejudice the adjudication of the original parties’ rights. ID at 2–3.

No petitions for review of the ID were filed.

The Commission has determined not to review the ID. Cosentino is granted respondent status in this investigation.

The Commission vote for this determination took place on April 8, 2026.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 8, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–07091 Filed 4–10–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0059]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Revision of a Previously Approved Collection; Title—Registration for Controlled Substances Act Data-Use Request

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until May 13, 2026.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather E. Achbach, Regulatory Drafting and Policy Support Section, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (571) 776–3882; Email: DEA.PRA@dea.gov.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on January 2, 2026, at 91 FR 167, allowing for a 60-day comment period.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your

comments should address one or more of the following four points:

- 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/or
- 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.

Written comments and recommendations for this 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 and entering either the title of the information collection or the OMB Control Number 1117–0059. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.
2. *Title of the Form/Collection:* Registration for CSA Data-Use Request.
3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No form number is associated with this collection. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, Local, and tribal governments.

5. *Abstract:* In accordance with the Controlled Substance Act (CSA), every person who manufactures, distributes, dispenses, conducts research with, imports, or exports any controlled substance to obtain a registration issued by the Attorney General. 21 U.S. 822, 823, and 957. While DEA registrants can self-verify their registration status, non-registrants do not have an obligation to register under the CSA and therefore do not have an automatic means to verify the registration of a DEA-registrant. Non-registrants have obligations to verify the registration statuses before doing things such as hiring practitioners, paying for controlled substance prescriptions covered by Medicaid or Medicare, and other means that are apart of commerce. This collection allows non-registrants to register for access to the CSA Database System, which gives the names and registration statuses of all DEA-registrants. Applicants are required to re-apply annually by completing this form and submitting to DEA.

6. *Obligation to Respond:* Required to obtain or retain benefits.

7. *Total Estimated Number of Respondents:* 16,000.

8. *Estimated Time per Respondent:* 15 minutes.

9. *Frequency:* 1 per year.

10. *Total Estimated Annual Time Burden:* 4,000 hours.

11. *Total Estimated Annual Other Costs Burden:* \$320,000 per year due to a \$20 fee charged to each respondent. The fee allows DEA to recover the cost of processing applications.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC 20530.

Dated: April 9, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07129 Filed 4-10-26; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Agency Information Collection Activities; Submission for OMB Review; Report on Occupational Employment and Wages

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before May 13, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202-693-0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The Occupational Employment and Wage Statistics (OEWS) survey is a Federal/State establishment survey of wage and salary workers designed to produce data on current detailed occupational employment and wages for each Metropolitan Statistical Area and Metropolitan Division as well as by detailed industry classification. OEWS survey data assists in the development of employment and training programs established by the Perkins Vocational Education Act of 1998 and the

Workforce Investment Act of 1998. Respondents include private establishment, schools, hospitals, State and Local Government. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 6, 2026 (91 FRN 2156).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

Agency: DOL-BLS.

Title of Collection: Report on Occupational Employment and Wages.

OMB Control Number: 1220-0042.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 256,879.

Total Estimated Number of Responses: 256,879.

Total Estimated Annual Time Burden: 128,440 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026-07058 Filed 4-10-26; 8:45 am]

BILLING CODE 4510-24-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 13, 20, 27, and May 4, 11, 18, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please contact the Reasonable Accommodations Resource

by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of April 13, 2026

There are no meetings scheduled for the week of April 13, 2026.

Week of April 20, 2026—Tentative

Tuesday, April 21, 2026

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Ally Mara: 301-415-2509)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of April 27, 2026—Tentative

There are no meetings scheduled for the week of April 27, 2026.

Week of May 4, 2026—Tentative

Tuesday, May 5, 2026

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Erin Deeds: 301-415-2887)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Thursday, May 7, 2026

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Annie Ramirez: 301-415-6780)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's

meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of May 11, 2026—Tentative

There are no meetings scheduled for the week of May 11, 2026.

Week of May 18, 2026—Tentative

There are no meetings scheduled for the week of May 18, 2026.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: April 9, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026-07143 Filed 4-9-26; 4:15 pm]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2024-291; CP2024-304; K2025-1295; MC2026-195 and K2026-195]

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:* April 16, 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:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal

Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone

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).

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. The comment due date discussed above does not apply to Section III proceedings (Docket Nos. MC2026–195 and K2026–195).

II. Public Proceeding(s)

1. *Docket No(s).*: CP2024–291; *Filing Title*: Request of the United States Postal Service Concerning Modification One to International Priority Airmail, Commercial ePacket, Priority Mail Express International & Priority Mail International Contract 2, Which Includes an Extension of That Agreement; *Filing Acceptance Date*: April 8, 2026; *Filing Authority*: 39 CFR 3041.505 and 3041.515; *Public Representative*: Katalin Clendenin; *Comments Due*: April 16, 2026.

2. *Docket No(s).*: CP2024–304; *Filing Title*: Request of the United States Postal Service Concerning Modification One to International Priority Airmail, Commercial ePacket, Priority Mail Express International & Priority Mail International Contract 7, Which Includes an Extension of That Agreement; *Filing Acceptance Date*: April 8, 2026; *Filing Authority*: 39 CFR 3041.505 and 3041.515; *Public Representative*: Maxine Bradley; *Comments Due*: April 16, 2026.

3. *Docket No(s).*: K2025–1295; *Filing Title*: Request of the United States Postal Service Concerning Modification One to Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 65, Which Includes an Extension of That Agreement; *Filing Acceptance Date*: April 8, 2026; *Filing Authority*: 39 CFR 3041.505, and 3041.515; *Public Representative*: Maxine Bradley; *Comments Due*: April 16, 2026.

III. Summary Proceeding(s)

1. *Docket No(s).*: MC2026–195 and K2026–195; *Filing Title*: USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 951, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 8, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026–07099 Filed 4–10–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105180; File No. SR–EMERALD–2026–08]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Options Exchange Fee Schedule To Amend Non-Transaction Fees

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”) ¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 25, 2026, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the “Fee Schedule”) to update various non-transaction fees that have not been changed in a number of years to be comparable to fees charged by other like exchanges for similar products.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings>, and at the Exchange’s principal office.

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 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 first launched operations in March 2019 to attract order flow and encourage market participants to experience the high determinism and resiliency of the Exchange’s trading Systems.³ To do so, the Exchange took a pragmatic and thoughtful approach to each fee proposal to encourage and increase participation in its marketplace while being mindful of fee levels charged by other exchanges for similar products and services. The Exchange now proposes to amend various fees for non-transaction related services to be in line with those of other exchanges and enable it to continue to effectively compete with other exchanges who charge higher non-transaction fees and generate greater revenue. This proposal simply seeks to increase certain fees to reflect current market rates. The Exchange notes that significant portion of the fees for non-transaction related services that are the subject of this filing have not been increased since October 2020.

Specifically, the Exchange proposes to amend the Fee Schedule to amend the following non-transaction fees: (1) monthly Trading Permit⁴ fees applicable to Electronic Exchange Members (“EEMs”) ⁵ and Market Makers;⁶ (2) connectivity fees to the

³ The term “System” means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

⁴ The term “Trading Permit” means a permit issued by the Exchange that confers the ability to transact on the Exchange. *See* Exchange Rule 100.

⁵ The term “Electronic Exchange Member” or “EEM” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act. *See* Exchange Rule 100.

⁶ The term “Market Makers” refers to “Lead Market Makers”, “Primary Lead Market Makers”

primary/secondary facility and disaster recovery facility for Members⁷ and non-Members; and (3) FIX,⁸ MEI,⁹ Purge,¹⁰ CTD¹¹ and FXD¹² Port fees.¹³

Monthly Trading Permit Fees

The Exchange proposes to amend the Fee Schedule to amend the amount of

and “Registered Market Makers” collectively. *See* Exchange Rule 100.

⁷ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. *See* Exchange Rule 100.

⁸ “FIX Port” means an interface with MIAIX Emerald systems that enables the Port user to submit simple and complex orders electronically to MIAIX Emerald. *See* the Definitions section of the Fee Schedule.

⁹ MIAIX Emerald Express Interface (“MEI”) is a connection to the MIAIX Emerald System that enables Market Makers to submit simple and complex electronic quotes to MIAIX Emerald. “Full Service MEI Ports” means a port which provides Market Makers with the ability to send Market Maker simple and complex quotes, eQuotes, and quote purge messages to the MIAIX Emerald System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per Matching Engine. “Limited Service MEI Ports” means a port which provides Market Makers with the ability to send simple and complex eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAIX Emerald System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers initially receive four Limited Service MEI Ports per Matching Engine. *See* the Definitions section of the Fee Schedule.

¹⁰ “Purge Ports” provide Market Makers with the ability to send quote purge messages to the MIAIX Emerald System. Purge Ports are not capable of sending or receiving any other type of messages or information. *See* the Definitions section of the Fee Schedule.

¹¹ “CTD Port” or “Clearing Trade Drop Port” provides an Exchange Member with a real-time clearing trade updates. The updates include the Member’s clearing trade messages on a low latency, real-time basis. The trade messages are routed to a Member’s connection containing certain information. The information includes, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); and (v) Exchange MPID for each side of the transaction, including Clearing Member MPID. *See* the Definitions section of the Fee Schedule.

¹² The FIX Drop Copy (“FXD”) Port is a messaging interface that will provide a copy of real-time trade execution, trade correction and trade cancellation information to FXD Port users who subscribe to the service. FXD Port users are those users who are designated by an EEM to receive the information and the information is restricted for use by the EEM. FXD Port Fees will be assessed in any month the Member is credentialed to use the FXD Port in the production environment. *See* Fee Schedule, Section 5)d)iv).

¹³ The Exchange initially filed this proposal on December 31, 2025. *See* Securities Exchange Act Release No. 104590 (January 13, 2026), 91 FR 2250 (January 16, 2026) (SR-EMERALD-2025-23). On January 30, 2026, the Exchange withdrew SR-EMERALD-2025-23 and refiled this proposal. *See* Securities Exchange Act Release No. 104838 (February 12, 2026), 91 FR 7605 (February 18, 2026) (SR-EMERALD-2026-05). On March 25, 2026, the Exchange withdrew SR-EMERALD-2026-05 and refiled this proposal.

the monthly Trading Permit fees assessed to EEMs and Market Makers.

EEMs

The Exchange notes that Trading Permit fees for EEMs have not been amended since October 2020.¹⁴ The Exchange assesses a flat monthly fee of \$1,500 per Trading Permit to each EEM. The Exchange now proposes to increase the monthly Trading Permit fee assessed to EEMs from \$1,500 to \$2,000.

Market Makers

The monthly Trading Permit fees for Market Makers have not been amended since October 2020.¹⁵ Currently, the Exchange assesses monthly Trading Permit fees to Market Makers based on the lesser of either the per class basis or percentage of total national average daily volume (“ADV”) measurements. The amount of the monthly Trading Permit fee is based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon class volume percentages. The Exchange will assess Market Makers the monthly Trading Permit fee based on the greatest number of classes listed on MIAIX Emerald that the Market Maker was assigned to quote in on any given day within a calendar month.¹⁶ The class volume percentage is based on the total national ADV in classes listed on MIAIX Emerald in the prior calendar quarter. Newly listed option classes are excluded from the calculation of the monthly Trading Permit fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume.

Currently, the Exchange assesses the following Trading Permit fees to Market Makers:

- \$7,000 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$12,000 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;

- \$17,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and

- \$22,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAIX Emerald.

The Exchange also assesses an alternative lower Trading Permit fee to Market Makers who fall within the 3rd and 4th levels of the Market Maker Trading Permit fee table, which levels are described immediately above if certain volume thresholds are met. This alternative lower Trading Permit fee for Market Makers is set forth in footnote “■” that is included in the Market Maker Trading Permit fee table and provides that if the Market Maker’s total monthly executed volume during the relevant month is less than 0.025% of the total monthly executed volume reported by OCC in the customer account type for MIAIX Emerald-listed option classes for that month, then the fee will be \$15,500 instead of the fee otherwise applicable to such level.

The Exchange now proposes to increase the Trading Permit fees assessed to Market Makers, which, as described above, were last amended in October 2020. In particular, the Exchange proposes to assess the following Trading Permit fees to Market Makers:

- \$8,000 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$14,000 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$20,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and
- \$26,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAIX Emerald.

The Exchange also proposes to decrease the alternative lower Trading Permit fee to Market Makers who fall within the 3rd and 4th levels of the Market Maker Trading Permit fee table if certain volume thresholds are met from \$15,500 to \$14,000 per month by amending the footnote “■” following the Market Maker Trading Permit fee table for these monthly Trading Permit tier levels.

¹⁴ *See* Securities Exchange Act Release Nos. 90196 (October 15, 2020), 85 FR 67064 (October 21, 2020) (SR-EMERALD-2020-11) and 91033 (February 1, 2021), 86 FR 8455 (February 5, 2021) (SR-EMERALD-2021-03).

¹⁵ *See* Securities Exchange Act Release Nos. 90196 (October 15, 2020), 85 FR 67064 (October 21, 2020) (SR-EMERALD-2020-11) and 91033 (February 1, 2021), 86 FR 8455 (February 5, 2021) (SR-EMERALD-2021-03).

¹⁶ Pursuant to Exchange Rule 602(a), the Board or a committee designated by the Board shall appoint Market Makers to one or more classes of option contracts traded on the Exchange based on several factors described in the Rule in the best interest of the Exchange to provide competitive markets.

System Connectivity Fees

1Gb and 10Gb Network Connectivity Fees

Next, the Exchange proposes to amend the Fee Schedule to increase connectivity fees to the primary/secondary and disaster recovery facilities for Members and non-Members. Currently, the Exchange assesses the same amount of connectivity fees to Members and non-Members that connect to the Exchange's primary/secondary facility and disaster recovery facility. In particular, the Exchange assesses the following connectivity fees to Members and non-Members:

- \$1,400 per 1 gigabit ("Gb") connection to the primary/secondary facility;
- \$550 per 1Gb connection to the disaster recovery facility;
- \$2,750 per 10Gb connection to the disaster recovery facility; and
- \$13,500 per 10Gb ultra-low latency ("ULL") connection to the primary/secondary facility.

The Exchange notes that the above fees for 1Gb connectivity and 10Gb to the disaster recovery facility, and 1Gb connectivity to the primary/secondary facilities, have not been increased since December 2019.¹⁷ The fee for 10Gb ULL connectivity was last increased in January 2023.¹⁸

The Exchange now propose to amend Sections 5)a)–b) of the Fee Schedule to increase connectivity fees for Members and non-Members. In particular, the Exchange proposes to assess the following connectivity fees to Members and non-Members:

- \$1,500 per 1Gb connection to the primary/secondary facility;
- \$650 per 1Gb connection to the disaster recovery facility;
- \$3,500 per 10Gb connection to the disaster recovery facility; and
- \$15,000 per 10Gb ULL connection to the primary/secondary facility.

Port Fees

The Exchange proposes to amend the fees for FIX Ports, Full Service MEI

Ports, Limited Service MEI Ports, Purge Ports, CTD Ports and FXD Ports. Some of these fees have not been increased since they were first adopted in 2020. Each port provides access to the Exchange's primary and secondary data centers as well as its disaster recovery center for a single fee.

FIX Ports

The Exchange proposes to amend the fees for FIX Ports, which have not been increased since October 2020.¹⁹ A FIX Port allows Members to submit simple and complex orders electronically to MIAx Emerald.²⁰ The Exchange currently assesses the following monthly FIX Port fees:

- \$550 for the first FIX Port;
- \$350 per port for the second to fifth FIX Ports; and
- \$150 per port for the sixth or more FIX Ports.

The Exchange proposes to increase monthly FIX Port fees as follows:

- \$650 for the first FIX Port;
- \$400 per port for the second to fifth FIX Ports; and
- \$175 per port for the sixth or more FIX Ports.

Full Service MEI Ports

The Exchange proposes to amend the Full Service MEI Port fees for Market Makers, which have not been increased since October 2020.²¹ Full Service MEI Ports provide Market Makers with the ability to send Market Maker simple and complex quotes, eQuotes, and quote purge messages to the MIAx Emerald System. Full Service MEI Ports are also capable of receiving administrative information.²²

The Exchange assesses the amount of the monthly Full Service MEI Port fees for Market Makers based on the lesser of either the per class basis or percentage of total national ADV measurements. The amount of the monthly Full Service MEI Port fee is based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon class volume percentages. The Exchange assesses Market Makers the monthly Full Service MEI Port fee based on the greatest number of classes listed on MIAx Emerald that the Market Maker

was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national ADV in classes listed on MIAx Emerald in the prior calendar quarter. Newly listed option classes are excluded from the calculation of the monthly Full Service MEI Port fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume. Specifically, the Exchange assesses the following Full Service MEI Port fees to Market Makers:

- \$5,000 for Market Maker assignments in up to 5 option classes or up to 10% of option classes by national ADV;
- \$10,000 for Market Maker assignments in up to 10 option classes or up to 20% of option classes by ADV;
- \$14,000 for Market Maker assignments in up to 40 option classes or up to 35% of option classes by national ADV;
- \$17,500 for Market Maker assignments in up to 100 option classes or up to 50% of option classes by ADV; and
- \$20,500 for Market Maker assignments in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAx Emerald.

The Exchange also provides an alternative lower Full Service MEI Port fee for Market Makers who fall within the 4th and 5th levels of the Market Maker Full Service MEI Port fee table, which levels are described directly above if certain volume thresholds are met. This alternative lower Full Service MEI Port fee for Market Makers is set forth in footnote "■" in the Market Maker Full Service MEI Port fee table and provides that if the Market Maker's total monthly executed volume during the relevant month is less than 0.025% of the total monthly executed volume reported by OCC in the customer account type for MIAx Emerald-listed option classes for that month, then the fee will be \$14,500 instead of the fee otherwise applicable to such level.

The Exchange now proposes to increase the Full Service MEI Port fees assessed to Market Makers as follows:

- \$6,000 for Market Maker assignments in up to 5 option classes or up to 10% of option classes by national ADV;
- \$12,000 for Market Maker assignments in up to 10 option classes or up to 20% of option classes by ADV;
- \$16,500 for Market Maker assignments in up to 40 option classes

¹⁷ See Securities Exchange Act Release No. 87877 (December 31, 2019), 85 FR 738 (January 7, 2020) (SR-EMERALD-2019-39).

¹⁸ See Securities Exchange Act Release Nos. 96628 (January 10, 2023), 88 FR 2651 (January 17, 2023) (SR-EMERALD-2023-01) and 99824 (March 21, 2024), 89 FR 21379 (March 27, 2024) (SR-EMERALD-2024-12) (noting that while the proposed fee changes subject to this filing were immediately effective, the proposed fee changes had been effective since January 1, 2023 pursuant to the Exchange's initially filed proposal on December 30, 2022 (*i.e.*, SR-EMERALD-2022-38, which was withdrawn without being noticed to make a minor technical correction and refiled immediately as SR-EMERALD-2023-01)).

¹⁹ See Securities Exchange Act Release Nos. 90184 (October 14, 2020), 85 FR 66636 (October 20, 2020) (SR-EMERALD-2020-12) and 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR-EMERALD-2021-11).

²⁰ See *supra* note 8.

²¹ See Securities Exchange Act Release Nos. 90184 (October 14, 2020), 85 FR 66636 (October 20, 2020) (SR-EMERALD-2020-12) and 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR-EMERALD-2021-11).

²² See *supra* note 9.

or up to 35% of option classes by national ADV;

- \$20,500 for Market Maker assignments in up to 100 option classes or up to 50% of option classes by ADV; and

- \$24,000 for Market Maker assignments in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAX Emerald.

The Exchange also proposes to decrease the alternative lower Full Service MEI Port fee for Market Makers who fall within the 3rd, 4th and 5th levels of the proposed Market Maker Full Service MEI Port fee table if certain volume thresholds are met from \$14,500 to \$12,000 per month by amending footnote “■” following the Market Maker Full Service MEI Port fee table.

Limited Service MEI Ports

The Exchange proposes to amend the fees for Limited Service MEI Ports, which provide Market Makers with the ability to send simple and complex eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAX Emerald System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers currently receive four free Limited Service MEI Ports per matching engine.²³ Currently, Market Makers may request additional Limited Service MEI Ports for which MIAX will assess Market Makers \$420 per month per additional Limited Service MEI Port for each matching engine. The Exchange proposes to increase the fee for each additional Limited Service MEI Port from \$420 to \$450 per month per additional Limited Service MEI Port for each matching engine.

Purge Ports

The Exchange proposes to amend the fees for Purge Ports, which provide Market Makers with the ability to send

quote purge messages to the MIAX Emerald System. Purge Ports are not capable of sending or receiving any other type of messages or information.²⁴ The Exchange proposes to increase the monthly Purge Port fee from \$600 per matching engine to \$700 per matching engine.²⁵

CTD Ports

The Exchange proposes to amend the fees for CTD Ports, which have not been increased since October 2020.²⁶ CTD Ports provide an Exchange Member with a real-time clearing trade updates, including, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); and (v) Exchange MPID for each side of the transaction, including Clearing Member MPID. The Exchange now proposes to increase the monthly fee per CTD Port from \$450 to \$525.

FXD Ports

The Exchange proposes to amend the fees for FXD Ports, which have not been increased since October 2020.²⁷ A FXD Port means a messaging interface that will provide a copy of real-time trade execution, trade correction and trade cancellation information for simple and complex orders to FIX Drop Copy Port users who subscribe to the service. FXD Port Fees will be assessed in any month the Member is credentialed to use the FXD Port in the production environment. The Exchange now proposes to increase the monthly fee per FXD Port from \$500 to \$600.

Implementation

The Exchange issued an alert publicly announcing the proposed fees on October 14, 2025 and a reminder alert on December 19, 2025.²⁸ The fees

subject to this proposal are immediately effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)²⁹ of the Act in general, and furthers the objectives of Section 6(b)(4)³⁰ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5)³¹ of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Fees Are Reasonable and Comparable to the Fees Charged by Other Exchanges for Similar Products and Services

Overall. The proposed fees are comparable to those of other options exchanges. The Exchange compared the fees proposed herein to the fees charged by other options exchanges for similar products or services. A more detailed discussion of the comparison follows.³²

EEM Trading Permit Fees

The proposed Trading Permit fee for EEMs are lower than the trading permit fee charged by Cboe Exchange, Inc. (“Cboe”), as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX Emerald	EEM Trading Permit	\$2,000
Cboe ^a	Electronic Access Permit	3,000

^a See Cboe Fee Schedule, Electronic Trading Permit Fees section, page 6, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf.

²³ See *supra* note 9.

²⁴ See *supra* note 10.

²⁵ A Market Maker may request and be allocated two (2) Purge Ports per matching engine to which it connects and will be charged the monthly fee per Matching Engine. See Fee Schedule, Section 5(d)(ii).

²⁶ See Securities Exchange Act Release Nos. 90184 (October 14, 2020), 85 FR 66636 (October 20, 2020) (SR-EMERALD-2020-12) and 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR-EMERALD-2021-11).

²⁷ See Securities Exchange Act Release Nos. 90184 (October 14, 2020), 85 FR 66636 (October 20, 2020) (SR-EMERALD-2020-12) and 91460 (April 2, 2021), 86 FR 18349 (April 8, 2021) (SR-EMERALD-2021-11).

²⁸ See Fee Change Alert, MIAX Options, Pearl Options and Emerald Options—January 1, 2026 Non-Transaction Fee Changes (dated October 14, 2025), available at <https://www.miaxglobal.com/alert/2025/10/14/miax-options-pearl-options-and-emerald-options-exchanges-january-1-2026-non-1?nav=all> and Fee Change Alert, MIAX Options, Pearl Options and Emerald Options Exchanges—

Reminder: January 1, 2026 Non-Transaction Fee Changes (dated December 19, 2025), available at <https://www.miaxglobal.com/alert/2025/12/19/miax-options-pearl-options-and-emerald-options-exchanges-reminder-january-1-1?nav=all>.

²⁹ 15 U.S.C. 78f.

³⁰ 15 U.S.C. 78f(b)(4).

³¹ 15 U.S.C. 78f(b)(5).

³² The fee amounts listed in each table provided in the Statutory Basis section of this filing that pertain to the Exchange are the proposed new rates for each product or service.

Cboe. Cboe charges higher trading permit fees than the Trading Permit fees proposed by the Exchange for EEMs. Cboe's Electronic Access Permit is analogous to the Exchange's Trading Permits for EEMs. In general, a Trading Permit is a permit issued by the Exchange that confers the ability to transact on the Exchange.³³ EEMs are assessed the monthly Trading Permit fee in order to transact on the Exchange on behalf of their customers or to conduct

proprietary trading. Likewise, Cboe's Electronic Access Permits entitle the holder to access Cboe.³⁴ Like Trading Permit Holders on the Exchange, Electronic Access Permit holders must be broker-dealers registered with Cboe and are allowed to transact on Cboe.³⁵ Cboe charges a higher trading permit fee for Electronic Access Permits than the Trading Permit fee proposed by the Exchange for EEMs. Cboe charges a flat \$3,000 per Electronic Access Permit per

month, while the Exchange proposes to charge a flat \$2,000 per EEM Trading Permit per month, lower than Cboe's flat \$3,000 fee.

Market Maker Trading Permit Fees

The Exchange believes the proposed Trading Permit³⁶ fees for Market Makers are similar to the Trading Permit fees charged by NYSE American LLC ("NYSE American"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee		
MIAX Emerald	Market Maker Trading Permit.	\$8,000	Up to 10 Classes	Up to 20% of Classes by volume (as a % of national ADV).
		14,000	Up to 40 Classes	Up to 35% of Classes by volume (as a % of national ADV).
		20,000	Up to 100 Classes	Up to 50% of Classes by volume (as a % of national ADV).
		26,000	Over 100 Classes	Over 50% of Classes by volume up to all Classes on MIAX Options (as a % of national ADV).
NYSE American ^a	Options Market Maker ATPs.	\$8,000	1st ATP: 60 issues plus bottom 45%.	
		6,000	2nd ATP: 150 issues plus bottom 45%.	
		5,000	3rd ATP: 500 issues plus bottom 45%.	
		4,000	4th ATP: 1,100 issues plus bottom 45%.	
		3,000	5th ATP: all issues traded.	
		2,000	6th to 9th ATP: all issues traded.	
		500	10th or more ATPs: all issues traded.	

^a See NYSE American Options Fee Schedule, Section III.A., available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

NYSE American. NYSE American charges similar trading permit fees for its market makers as the Trading Permit fees proposed by the Exchange for its Market Makers. In general, a Trading Permit is a permit issued by the Exchange that confers the ability to transact on the Exchange.³⁷ Each registered Market Maker is assessed a monthly Trading Permit fee in order to appoint a qualified person (or persons) to act as a Registered Option Trader ("ROT")³⁸ pursuant to the Exchange's Rules and fulfill the Market Maker's obligations to act as a specialist on the Exchange.³⁹ The Exchange assesses Trading Permit fees based on the lesser

of either the per class basis or percentage of total national average daily volume measurement. A "class" of options means all option contracts covering the same underlying security.⁴⁰ NYSE American's market maker ATP⁴¹ fee is analogous to the Exchange's Trading Permit fees for Market Makers, which is a monthly fee in order to transact on NYSE American for the purpose of making markets in options contracts.⁴² NYSE American assesses its ATP fees based on the number of issues⁴³ in their appointment. The Exchange and NYSE American provide for different numbers of option classes included in each tier

of their respective trading permit fee structures due to their own business and competitive reasons. The Exchange provides fewer options class assignments for each Trading Permit tier because it believes this structure best represents the Market Makers that trade on the Exchange. NYSE American, on the other hand, provides significantly more "issues" or options classes in each ATP tier in order to "properly [incentivize] Market Makers to quote in a broad range of options, including less liquid and active names . . ." ⁴⁴

³³ See Exchange Rule 100.

³⁴ See Cboe Fee Schedule, Electronic Trading Permit Fees section, page 6, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf. The Exchange notes that Cboe differentiates between electronic access permits for clearing firms and electronic exchange member firms and charges a trading permit fee of \$2,000 per month for Clearing TPH Permits, which is the same rate for a Trading Permit as proposed by the Exchange for EEMs that act as Clearing Members. See *id.* The term "Clearing Member" means a Member that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the rules of the Clearing Corporation. See Exchange Rule 100. The term "Clearing

Corporation" means The Options Clearing Corporation ("OCC"). *Id.*

³⁵ See Cboe Rulebook, Chapter 3, Rules 3.2–3.3.

³⁶ Similar to NYSE American, the Exchange assesses the monthly Trading Permit fee on a per-Member basis, not to each individual person within the Member.

³⁷ See Exchange Rule 100.

³⁸ An ROT is permitted to enter quotes and orders only for the account of the Market Maker with which he is associated. See Exchange Rule 601(a).

³⁹ See, generally, Chapter VI of the Exchange's Rules.

⁴⁰ See Exchange Rule 100.

⁴¹ An "ATP" or "ATP Holder" is a registered Broker-Dealer who is a permit holder on NYSE

American, per NYSE American Rule 900.2NY(4),(5). See NYSE American Options Fee Schedule, Key Terms and Definitions section, available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁴² See, generally, NYSE American Rule 923NY.

⁴³ An "issue" means an options class. See Securities Exchange Act Release No. 67764 (August 31, 2012), 77 FR 55254 (September 7, 2012) (SR-NYSEMKT-2012-44) (changing the calculation of trading permit fees to be based on the "number of option classes in [a NYSE Amex Options Market Maker's] electronic trading appointment . . ." and then using the term "issue" in the tiers of ATP fees).

⁴⁴ See *id.*

NYSE American charges similar trading permit fees to its ATPs as proposed by the Exchange herein for the Exchange's Market Makers. NYSE American charges all Options Market Makers⁴⁵ tiered trading permit fees based on the number of issues permitted in an Options Market Maker's quoting assignment.⁴⁶ NYSE American provides tiered ATP fees ranging from \$8,000 to \$26,000 due to the cumulative nature of the fee,⁴⁷ which amount could be significantly higher if a market maker purchases six or more ATPs, while the Exchange provides tiered Trading Permit fees ranging from \$8,000 to \$26,000 (as proposed), based on the lesser of either the per class basis or

percentage of total national ADV measurements. The Exchange offers even greater savings to Market Makers as it provides a reduced Trading Permit fee of \$16,000 (as proposed) for Market Makers if their total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAx-listed option classes for that month, which still allows these Market Makers to quote the entire market (or close to the entire market). NYSE American does not offer reduced fees for its Options Market Makers that only quote in certain classes compared to those that quote the entire market.

NYSE American actually charges higher fees for Options Market Makers that transacts in certain options classes, which fees add to the ATP fees described above.⁴⁸

Network Connectivity Fees (Disaster Recovery Facility)

The proposed network connectivity fees to the Exchange's disaster recovery facility for Members and non-Members are lower than the connectivity fees charged by Cboe C2 Exchange, Inc. ("Cboe C2") for connecting to the Cboe C2 disaster recovery facility, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per connection)
MIAx Emerald	1Gb Connectivity (disaster recovery)	\$650
	10Gb Connectivity (disaster recovery)	3,500
Cboe C2 ^a	Physical Port 1Gb (disaster recovery)	2,000
	Physical Port 10Gb (disaster recovery)	6,000

^a See Cboe C2 Fee Schedule, Physical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

Cboe C2. Cboe C2 charges higher 1Gb and 10Gb connectivity fees to connect to its disaster recovery facility than the Exchange proposes to connect to its disaster recovery facility. Cboe C2's connectivity fees to connect to its disaster recovery facility are analogous to the Exchange's connectivity fees to its disaster recovery facility. In general, the disaster recovery facility is a secondary data center in a separate, geographically diverse location that Exchange participants are able to connect to in order to have redundancy for their trading and market data connections in the event that the Exchange's primary

data center operations are disabled. Cboe C2's 1Gb and 10Gb connections to its disaster recovery center allow its members to connect to that data center in the event that Cboe C2's primary data center is no longer operational.⁴⁹

Cboe C2 charges higher 1Gb and 10Gb connectivity fees to its disaster recovery facility than the fees proposed by the Exchange herein for connectivity to the Exchange's disaster recovery facility. Cboe C2 charges monthly fees of \$2,000 per 1Gb connection and \$6,000 per 10Gb connection to its disaster recovery facility. Meanwhile, the Exchange proposes to charge monthly fees of \$650

per 1Gb connection and \$3,500 per 10Gb connection to its disaster recovery facility.

Network Connectivity Fees (Primary/Secondary Facility)

The proposed network connectivity fees to the Exchange's primary and secondary facility for Members and non-Members are lower than the connectivity fees charged by Nasdaq BX, Inc. ("Nasdaq BX") and NYSE American for connectivity to its primary data centers, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per connection)
MIAx Emerald	1Gb Connectivity	\$1,500
	10Gb Connectivity	15,000
Nasdaq BX ^a	1Gb Connection	2,750
	10Gb Ultra Connection	18,500
NYSE American ^b	10Gb LX LCN Circuit	22,000

^a See Securities Exchange Act Release No. 104261 (November 25, 2025), 90 FR 55209 (December 1, 2025) (SR-BX-2025-027).

^b See NYSE American Connectivity Fee Schedule, page 12, available at https://www.nyse.com/publicdocs/nyse/Wireless_Connectivity_Fees_and_Charges.pdf.

⁴⁵ A "Market Maker" refers to an ATP Holder that acts as a Market Maker pursuant to NYSE American Rule 920NY and is referred to as an "NYSE AMERICAN Options Market Maker" in the NYSE American Fee Schedule. See NYSE American Options Fee Schedule, Preface, available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁴⁶ NYSE American charges ATP fees based on the maximum number of ATPs held during the month.

The "bottom 45%" refers to the least actively traded issues on NYSE American, ranked by industry volume, as reported by the OCC for each issue during the calendar quarter. See NYSE American Options Fee Schedule, Section III.A., available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁴⁷ This was calculated by adding the monthly fees for the first five ATPs that a market maker would be required to purchase in order to quote the entire

NYSE American market (i.e., \$8,000 + \$6,000 + \$5,000 + \$4,000 + \$3,000).

⁴⁸ See NYSE American Options Fee Schedule, Section III.D. Premium Product fees (assessing an additional monthly fee of \$1,000 per product to NYSE American Options Market Makers that transact in premium products, such as SPY, APPL, etc., capped at \$7,000 per month).

⁴⁹ See Cboe BCP/DR Plan Highlights, v1.3, page 2, available at https://cdn.cboe.com/resources/membership/Cboe_Corporate_BCP-DR.pdf.

The Exchange notes that Nasdaq BX and NYSE American operate on shared infrastructure with their affiliates. As such, one network connection to one exchange provides access to the affiliated exchanges on their shared network. Meanwhile, the Exchange operates on a dedicated 10Gb ULL network that is not shared with its affiliates and therefore, each 10Gb ULL connection only provides connectivity to a single exchange. In the Exchange's experience, however, market participants that wish to experience certain latency may elect to purchase multiple connections rather than using one 10Gb connection to access multiple markets or, in some cases, purchase a more expensive 40Gb line if available. In addition, those that purchase connections to receive market data need a dedicated connection to each exchange because they are unable to receive market data from multiple markets over a single connection. Also, market participants may choose to not use the single connection to access other markets within an exchange family to avoid incurring other ancillary costs, such as membership, transaction, or other network fees.

Nasdaq BX. Nasdaq BX charges higher connectivity fees to its primary data center. Nasdaq BX's 1Gb and 10Gb Ultra fiber connection fees are

analogous to the Exchange's 1Gb and 10Gb ULL connectivity fees. In general, the Exchange's 1Gb and 10Gb ULL connectivity fees provide Members and non-Members with access to the Exchange's primary and secondary facilities (*i.e.*, the live trading platforms and market data systems). Nasdaq BX's 1Gb and 10Gb Ultra fiber connections provide Nasdaq BX participants with the ability to connect directly to Nasdaq BX's trading platforms and market data feeds.⁵⁰

Nasdaq BX charges higher connectivity fees than the connectivity fees to the primary and secondary facilities proposed by the Exchange herein. Nasdaq BX charges all participants monthly fees of \$2,750 per 1Gb connection and \$18,500 per 10Gb connection to access its primary data center. Meanwhile, the Exchange proposes to charge Members and non-Members monthly fees of \$1,500 per 1Gb connection and \$15,000 per 10Gb ULL connection to the Exchange's primary and secondary facilities. Nasdaq BX charges an additional installation fee for each 1Gb or 10Gb connection of \$1,650.⁵¹

NYSE American. NYSE American charges higher 10Gb connectivity fees to its primary data center. NYSE American's 10Gb LX LCN Circuit connection fee is analogous to the

Exchange's 10Gb ULL connectivity fee. In general, the Exchange's 10Gb ULL connectivity fee provides Members and non-Members with access to the Exchange's primary and secondary facilities (*i.e.*, the live trading platforms and market data systems). NYSE American's 10Gb LX LCN Circuit connection provides NYSE American participants with the ability to connect directly to NYSE American trading platforms and market data feeds.⁵²

NYSE American charges higher connectivity fees as proposed by the Exchange herein. NYSE American charges all participants a monthly fee of \$22,000 per 10Gb LX LCN Circuit connection to access its primary data center. Meanwhile, the Exchange proposes to charge Members and non-Members a monthly fee of \$15,000 per 10Gb ULL connection to the Exchange's primary and secondary facilities. NYSE American charges an additional installation fee for each 10Gb LX LCN Circuit connection of \$15,000.⁵³

FIX Port Fees

The proposed FIX Port fees are comparable to, or lower than, the similar port fees charged by Cboe BZX Exchange, Inc. ("Cboe BZX"), Cboe C2 and The Nasdaq Stock Market LLC ("Nasdaq"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Emerald	1st FIX Port	\$650
	2nd to 5th FIX Ports	400
	6th or more FIX Ports	175
Cboe BZX ^a	Logical Ports	750
Cboe C2 ^b	FIX Logical Ports	650
Nasdaq ^c	FIX Ports	650

^a See Cboe BZX Fee Schedule, Options Logical Port Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/.

^b See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

^c See Nasdaq Options 7 Pricing Schedule, Section 3(i)(1), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Cboe BZX. Cboe BZX charges higher Logical Port fees than the FIX Port fees proposed by the Exchange. Cboe BZX's Logical Ports are analogous to the Exchange's FIX Ports. In general, a FIX Port allows an Exchange Member to send simple and complex orders, as well as other messages, to the Exchange using the FIX protocol.⁵⁴ Cboe BZX's Logical Ports allow for order entry and

other messages to be sent to Cboe BZX by participants.⁵⁵ Cboe BZX charges slightly higher Logical Port fees than the FIX Port fees proposed by the Exchange herein. Cboe BZX charges a monthly fee of \$750 per Logical Port, while the Exchange's highest proposed tier is only \$650 per FIX Port per month.

Cboe C2. Cboe C2 charges comparable FIX Logical Port fees as the FIX Port fees

proposed by the Exchange. Cboe C2's FIX Logical Ports are analogous to the Exchange's FIX Ports. In general, a FIX Port allows an Exchange Member to send simple and complex orders and other messages to the Exchange using the FIX protocol.⁵⁶ Cboe C2's FIX Logical Ports allow for order entry and

⁵⁰ See, generally, Nasdaq Market Connectivity Options web page, available at <https://www.nasdaq.com/solutions/nasdaq-co-location> (last visited March 22, 2026).

⁵¹ See Nasdaq BX, General 8: Connectivity, Section 1(b), Connectivity to the Exchange,

available at <https://listingcenter.nasdaq.com/rulebook/bx/rules/BX%20General%208>.

⁵² See, generally, NYSE American Connectivity Fee Schedule, available at https://www.nyse.com/publicdocs/nyse/Wireless_Connectivity_Fees_and_Charges.pdf.

⁵³ See *id.*

⁵⁴ See the Definitions section of the Fee Schedule.

⁵⁵ See, generally, Cboe Titanium U.S. Options FIX Specification, Version 2.7.97 (dated October 20, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁵⁶ See the Definitions section of the Fee Schedule.

other messages to be sent to Cboe C2 by participants.⁵⁷

Cboe C2 charges comparable FIX Logical Port fees as the FIX Port fees proposed by the Exchange herein. Cboe C2 charges a monthly fee of \$650 per FIX Logical Port, while the Exchange's highest proposed tier is \$650 per FIX Port per month, with the Exchange's fees for subsequent FIX Ports decreasing to \$400 per port (FIX Ports 2–5) and then \$175 per port (FIX Ports greater than 5). Cboe C2 FIX Logical Port users may incur an additional monthly fee of \$650 per port. Cboe C2 provides that for the standard monthly fee of \$650 per FIX Logical Port, a user may enter up to 70,000 orders per trading day per port

as measured on average in a single month. However, each incremental usage of up to 70,000 per day per FIX Logical Port will incur an additional \$650 fee per month.⁵⁸

Nasdaq. Nasdaq charges similar FIX Port fees as the FIX Port fees proposed by the Exchange. Nasdaq's FIX Ports are analogous to the Exchange's FIX Ports in that they that allow Nasdaq participants to connect, send, and receive messages related to orders to and from Nasdaq, which include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications.⁵⁹

Nasdaq charges participants \$650 per FIX Port per month, while the

Exchange's highest proposed tier is \$650 per FIX Port per month, with the Exchange's fees for subsequent FIX Ports decreasing to \$400 per port (FIX Ports 2–5) and then \$175 per port (FIX Ports greater than 5). Accordingly, Nasdaq charges comparable FIX Port fees as proposed by the Exchange herein.

Limited Service MEI Port Fees

The proposed Limited Service MEI Port ("LSPs") fees are lower than the similar port fees charged by Nasdaq and Nasdaq MRX, LLC ("Nasdaq MRX"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Emerald	Limited Service MEI Port	\$450
Nasdaq ^a	QUO Ports	750
Nasdaq MRX ^b	OTTO Ports	650

^a See Nasdaq, Options 7: Pricing Schedule, Section 3(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

^b See Nasdaq MRX, Options 7: Pricing Schedule, Section 6(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/mrx/rules/MRX%20Options%207>.

Nasdaq. Nasdaq charges higher Quote Using Order ("QUO") Port fees than the Limited Service MEI Port fees proposed by the Exchange. The Exchange acknowledges differences between the functionality of its LSPs and that of Nasdaq's QUO Ports; however, the Exchange believes that the fee comparison between LSPs and QUO Ports is relevant as both ports provide a limited subset of functionality as provided by other ports offered by both the Exchange and Nasdaq. In general, Limited Service MEI Ports support all MEI Interface⁶⁰ input message types,⁶¹ but do not support bulk quote entry.⁶² Notifications sent over LSPs between market participants and the Exchange may include the following information: (1) execution notifications, cancel notifications, stock leg execution notifications, and order notifications; (2) administrative messages (*i.e.*, series updates); (3) risk protection settings and notification updates; and (4) trading

status notifications (*i.e.*, halted).⁶³ Nasdaq's QUO Ports allow Nasdaq market makers to connect, send, and receive messages related to single-sided orders to and from Nasdaq.⁶⁴ Messages sent over QUO Ports may include the following: (1) options symbol directory messages (*e.g.*, underlying); (2) system event messages (*e.g.*, start of trading hours messages and start of opening); (3) trading action messages (*e.g.*, halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications.⁶⁵ Nasdaq charges a monthly fee of \$750 per QUO Port, per account number, while the Exchange provides the first four LSPs for free and proposes to charge \$450 per additional LSP for each matching engine per month thereafter. Nasdaq charges higher QUO Port fees than the LSP fees proposed by the Exchange herein.

Nasdaq MRX. Nasdaq MRX charges higher Ouch to Trade Options

("OTTO") Port fees than the Limited Service MEI Port fees proposed by the Exchange. The Exchange acknowledges differences between the functionality of its LSPs and that of Nasdaq MRX's OTTO Ports; however, the Exchange believes that the fee comparison between LSPs and OTTO Ports is relevant as both ports provide a limited subset of functionality as provided by other ports offered by both the Exchange and Nasdaq MRX. Nasdaq MRX's OTTO Ports allow Nasdaq MRX members to connect, send, and receive messages related to orders, auction orders, and auction responses to Nasdaq MRX.⁶⁶ Messages sent over OTTO Ports include the following: (1) options symbol directory messages (*e.g.*, underlying and complex instruments); (2) system event messages (*e.g.*, start of trading hours messages and start of opening); (3) trading action messages (*e.g.*, halts and resumes); (4) execution messages; (5) order messages; (6) risk protection

⁵⁷ See, generally, Cboe Titanium U.S. Options FIX Specification, Version 2.7.97 (dated October 20, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁵⁸ See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at <https://www.cboe.com/us/options/membership/fee-schedule/ctwo/>. Incremental usage is determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed FIX Ports. See *id.*

⁵⁹ See Nasdaq Options 3 Options Trading Rules, Section 7(e)(1)(A).

⁶⁰ The MIAX Express Interface ("MEI") is a connection to MIAX Emerald System that enables

Market Makers to submit simple and complex electronic quotes to MIAX Emerald. See the Definitions section of the Fee Schedule.

⁶¹ See MIAX Emerald MEI Interface Specification, Version 2.2c (revision date October 10, 2025), available at https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.2c.pdf (providing full description of messages supported by the MEI Interface).

⁶² See MIAX Emerald Options Exchange User Manual, Version 1.0.0, Section 5.01 (revision date December 12, 2023), available at https://www.miaxglobal.com/miax_emerald_user_manual.pdf.

⁶³ See MIAX Emerald MEI Interface Specification, Version 2.2c (revision date October 10, 2025), available at https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.2c.pdf (providing full description of messages supported by the MEI Interface).

⁶⁴ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

⁶⁵ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

⁶⁶ See Nasdaq MRX, Options 3: Options Trading Rules, Supplementary Material to Options 3, Section 7, .03(b).

triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages.⁶⁷

Nasdaq MRX charges a monthly fee of \$650 per OTTO Port, per account number (with fees for all OTTO Ports, CTI Ports, FIX Ports, FIX Drop Ports and disaster recovery ports subject to a

monthly cap of \$7,500), while the Exchange provides the first four LSPs for free and proposes to charge \$450 per additional LSP for each matching engine per month thereafter. Nasdaq MRX charges higher OTTO Port fees than the LSP fees proposed by the Exchange herein.

Purge Port Fees

The proposed Purge Port fees are comparable to, or lower than, the similar port fees charged by Nasdaq MRX, Cboe C2 and Nasdaq, as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX Emerald	Purge Ports	\$700 per matching engine.
Nasdaq MRX ^a	First 5 SQF Purge Ports	\$1,620 per port.
	Next 15 SQF Purge Ports	\$1,080 per port.
	All SQF Purge Ports over 20	\$540 per port.
Cboe C2 ^b	Purge Ports	\$850 per port.
Nasdaq ^c	First 5 SQF Purge Ports	\$1,620 per port.
	Next 15 SQF Purge Ports	\$1,080 per port.
	All SQF Purge Ports over 20	\$540 per port.

^a See Securities Exchange Act Release No. 104005 (September 18, 2025), 90 FR 45855 (September 23, 2025) (SR-MRX-2025-20) (new fees effective January 1, 2026).

^b See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/two/.

^c See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect. However, in a practical sense, the Exchange can surmise that a market participant would require multiple purge ports to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's trading behavior requires. The Exchange does not know the actual number of purge ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchange's entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

Nasdaq MRX. Nasdaq MRX charges higher Specialized Quote Feed ("SQF") Purge Port fees than the Purge Port fees proposed by the Exchange. Nasdaq MRX's SQF Purge Ports are analogous to the Exchange's Purge Ports. In general, Purge Ports provide Market Makers with the ability to send quote purge messages to the Exchange, but are not capable of

sending or receiving any other type of messages or information.⁶⁸ Nasdaq MRX's SQF Purge Ports allow Nasdaq MRX market makers to send purge requests to the Nasdaq MRX trading system.⁶⁹

Nasdaq MRX charges higher SQF Purge Port fees than the Purge Port fees proposed by the Exchange herein. Nasdaq MRX will charge (beginning January 1, 2026) SQF Purge Port fees as follows: (a) \$1,620 per SQF Purge Port per month for the first 5 ports; (b) \$1,080 per SQF Purge Port per month for the next 15 ports; and (c) \$540 per SQF Purge Port for all ports over 20 ports. The Exchange proposes to charge \$700 per Purge Port per matching engine per month. The Exchange chose to charge Purge ports on a per matching engine basis instead of a per port basis due to its System architecture, which provides two (2) Purge Ports per matching engine for redundancy purposes. Market Makers are able to select the matching engines that they want to connect to based on the business needs of each Market Maker, and pay the applicable fee based on the number of matching engines and pair of ports utilized.⁷⁰ This architecture provides Market Makers with flexibility to control their Purge Port costs based on the number of matching engines each Market Maker elects to connect to based

on each Market Maker's business needs. Further, the Exchange's monthly Purge Port fee provides access to the Exchange's primary, secondary, and disaster recovery data centers for the single monthly fee. Nasdaq MRX, on the other hand, assesses an additional fee \$50 per SQF Purge Port per month, per account number, to access its disaster recovery facility (albeit, Nasdaq MRX currently waives the fee for one SQF Purge Port to the disaster recovery facility per market maker per month).

Cboe C2. Cboe C2 charges higher Purge Port fees than the Purge Port fees proposed by the Exchange. Cboe C2's Purge Ports are analogous to the Exchange's Purge Ports. In general, Cboe C2's Purge Ports allow its members the ability to cancel a subset (or all) of open orders across the executing firm's ID, underlying symbol(s), or custom group ID, across multiple logical ports/sessions.⁷¹ Cboe C2 charges \$850 per Purge Port per month, while the Exchange proposes to charge \$700 per pair of Purge Ports per matching engine per month. Cboe C2 charges higher Purge Port fees than the Purge Port fees proposed by the Exchange herein.

Nasdaq. Nasdaq charges higher SQF Purge Port fees than the Purge Port fees proposed by the Exchange. Nasdaq's SQF Purge Ports are analogous to the Exchange's Purge Ports, which allow

⁶⁷ See Nasdaq MRX, Options 3: Options Trading Rules, Supplementary Material to Options 3, Section 7, .03(b).

⁶⁸ See the Definitions section of the Fee Schedule.

⁶⁹ See Nasdaq MRX Options 3: Trading Rules, Supplementary Material to Options 3, Section 7, .03(c).

⁷⁰ The Exchange notes that each matching engine corresponds to a specified group of symbols. Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

⁷¹ See Cboe Purge Ports, Frequently Asked Questions, U.S. Options, Version 1.3, available at

https://cdn.cboe.com/resources/features/Cboe_USO_PurgePortsFAQs.pdf (last visited November 5, 2025).

Nasdaq market makers to send purge requests to the Nasdaq trading system.⁷²

Nasdaq charges higher Purge Port fees than the Purge Port fees proposed by the Exchange herein. Nasdaq charges tiered SQF Purge Port fees as follows: (a) \$1,620 per SQF Purge Port per month

for the first 5 ports; (b) \$1,080 per SQF Purge Port per month for the next 15 ports; and (c) \$540 per SQF Purge Port for all ports over 20 ports. The Exchange proposes to charge a flat \$700 per set of Purge Ports per matching engine per month.

CTD Port Fees

The proposed CTD Port fees are lower than the similar port fees charged by Nasdaq, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Emerald	CTD Ports	\$525
Nasdaq ^a	CTI Ports	650

^a See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Nasdaq. Nasdaq charges higher Clearing Trade Interface (“CTI”) Port fees than the CTD Port fees proposed by the Exchange. Nasdaq’s CTI Ports are analogous to the Exchange’s CTD Ports. In general, CTD Ports provide an Exchange Member with real-time clearing trade updates, including, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member,

Broker-Dealer); and (v) Exchange MPID for each side of the transaction, including Clearing Member MPID.⁷³ Nasdaq’s CTI Ports provide real-time clearing trade updates regarding trade details specific to the Nasdaq participant, which include, among other things, the following: (i) The Clearing Member Trade Agreement or “CMTA” or The Options Clearing Corporation or “OCC” number; (ii) Nasdaq badge or house number; (iii) Nasdaq internal firm identifier; (iv) an indicator which will distinguish electronic and non-

electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity.⁷⁴

Nasdaq charges \$650 per CTI Port per month, while the Exchange proposes to charge \$525 per CTD Port per month. Nasdaq charges higher CTI Port fees than the CTD Port fees proposed by the Exchange herein.

FXD Port Fees

The proposed FXD Port fees are comparable to the similar port fees charged by Cboe C2 and Nasdaq BX, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Emerald	FXD Ports	\$600
Cboe C2 ^a	Drop Logical Ports	650
Nasdaq ^b	FIX Drop Ports	650

^a See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

^b See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Cboe C2. Cboe C2 charges comparable logical Drop Port fees as the FXD Port fees proposed by the Exchange. Cboe C2’s Drop Logical Ports are analogous to the Exchange’s FXD Ports. In general, FXD Ports allow the Exchange’s market participants to connect their systems with a messaging interface that provides a copy of real-time trade execution, trade correction and trade cancellation information.⁷⁵ Cboe C2’s Drop Logical Ports allow its members to receive real-time information about order flow, including execution information (*i.e.*, filled or partially filled) and cancellation information.⁷⁶ Like the Exchange’s FXD Ports, Cboe C2’s Drop Logical Ports do not allow the user to submit orders to the exchange.

Cboe C2 charges \$650 per Drop Logical Port per month, while the Exchange proposes to charge \$600 per FXD Port per month. Cboe C2 charges higher Drop Logical Port fees than the FXD Port fees proposed by the Exchange herein.

Nasdaq. Nasdaq charges comparable FIX Drop Port fees as the FXD Port fees proposed by the Exchange. Nasdaq’s FIX Drop Ports are analogous to the Exchange’s FXD Ports in that they provide a real-time order and execution update message that is sent to a Nasdaq participant after an order has been received or modified or an execution has occurred and contains trade details specific to that participant.⁷⁷ The information provided through the Nasdaq FIX Drop Port includes, among

other things, the following: (i) executions; (ii) cancellations; (iii) modifications to an existing order and (iv) busts or post-trade corrections.⁷⁸

Nasdaq charges \$650 per FIX Drop Port per month, while the Exchange proposes to charge \$600 per FXD Port per month. Nasdaq charges higher FIX Drop Port fees as the FXD Port fees proposed by the Exchange herein.

Full Service MEI Port Fees

The proposed Full Service MEI Port fees are comparable to the similar port fees charged by Cboe C2, as summarized in the table below.

⁷² See Nasdaq Options 3: Trading Rules, Section 7(e)(1)(B).

⁷³ See the Definitions section of the Fee Schedule.

⁷⁴ See Nasdaq Options 3: Trading Rules, Section 23(b)(1).

⁷⁵ See Fee Schedule, Section 5(d)iv).

⁷⁶ See Cboe Titanium U.S. Options FIX Specification, Version 2.7.97, FIX Drop section (dated October 20, 2025), available at <https://>

cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁷⁷ See Nasdaq Options 3: Trading Rules, Section 23(b)(3).

⁷⁸ *Id.*

Exchange	Type of product/service	Monthly fee		
MIAX Emerald	Market Maker Full Service MEI Port.	\$6,000	Up to 5 Classes	Up to 10% of Classes by volume (as a % of national ADV).
		12,000	Up to 10 Classes	Up to 20% of Classes by volume (as a % of national ADV).
		16,500	Up to 40 Classes	Up to 35% of Classes by volume (as a % of national ADV).
		20,500	Up to 100 Classes	Up to 50% of Classes by volume (as a % of national ADV).
		24,000	Over 100 Classes	Over 50% of Classes by volume up to all Classes on MIAX Emerald (as a % of national ADV).
Cboe C2 ^a	Bulk BOE Ports	\$1,500 per port for ports 1 through 5 \$2,500 per port for ports 6 or more.		

^a See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect. However, in a practical sense, the Exchange can surmise that a market participant would require multiple ports to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's quoting behavior requires. The Exchange does not know the actual number of purge ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of ports a firm would need to connect to another exchange's entire market and quote that entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' port fees as listed in their fee schedules.

Cboe C2. Cboe C2 charges similar, or higher, bulk order port fees than the Full Service MEI Port fees proposed by the Exchange. Cboe C2's Bulk BOE Ports are analogous to the Exchange's Full Service MEI Ports. In general, Full Service MEI Ports provide Market Makers with the ability to send simple and complex quotes, eQuotes, and quote purge messages to the MIAX Emerald System.⁷⁹ Full Service MEI Ports are also capable of receiving administrative information.⁸⁰ The Exchange's Full Service MEI Ports entitle a Market Maker to two such ports for each matching engine for a single monthly port fee.⁸¹ The Exchange has twelve total matching engines; therefore, for one monthly fee, each Market Maker is provided twenty-four total Full Service

MEI Ports (*i.e.*, two per matching engine multiplied by twelve matching engines). Cboe C2's Bulk BOE Ports provide users with the ability to submit single and bulk order messages to enter, modify, or cancel orders and are intended for use by market makers quoting large numbers of simple options series.⁸² Each Bulk BOE Port has access to all of Cboe C2's matching units, which, according to Cboe, typically ranges from 31–35 matching units per Cboe-affiliated exchange.⁸³ The Cboe C2 Bulk BOE Port does not provide a Cboe C2 market maker with a port for each matching unit and the Exchange believes that, based on the experience of its own Market Makers, it would not be feasible to quote an entire market with only a single (or handful) of ports; rather, a market maker would likely need to have a port on each matching unit to be able to quote the entire market.

The Exchange believes that Cboe C2 charges similar or higher bulk port fees as the Full Service MEI Port fees proposed by the Exchange herein. Cboe C2 charges \$1,500 per port for the first five Bulk BOE Ports, and \$2,500 per port for each Bulk BOE Port utilized in excess of five ports. The Exchange proposes to charge between \$6,000 and \$24,000 per month for Full Service MEI Ports for Market Makers, depending on the number of classes assigned or percentage of national ADV. The Exchange's proposed Full Service MEI Port fees for Market Makers provide two such ports for each of the Exchange's twelve matching engines, for a total of

twenty-four total ports for the monthly fee (between \$6,000 and \$24,000). For a Cboe C2 member to utilize a Bulk BOE Port on each matching unit, that member may need to purchase between 31 and 35 such ports. When drawing a comparison to the Exchange's proposed highest tier for Full Service MEI Ports (\$24,000), which provides an Exchange Member with 24 total ports, the Cboe C2 member would only receive 11 Bulk BOE Ports for a slightly less price (*i.e.*, (\$1,500 per Bulk BOE Port multiplied by the first five Bulk BOE Ports) + (\$2,500 per Bulk BOE Port multiplied by the next six Bulk BOE Ports)). Accordingly, the Exchange believes Cboe C2 charges similar or higher bulk port fees as the Full Service MEI Port fees proposed by the Exchange herein.

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Each of the above examples of other exchanges' non-transaction fees support the proposition that the Exchange's proposed fees are comparable to those of other exchanges for similar products or services and are, therefore, reasonable.

The Proposed Fees Are Equitably Allocated and Not Unfairly Discriminatory

Overall. The Exchange believes that its proposed fees are reasonable, equitable, and not unfairly discriminatory because, in sum, they are designed to align fees with services provided by amending them to levels that are comparable to similar fees for services assessed by other equity options exchanges. The Exchange believes that the proposed fees are allocated fairly and equitably among Members and non-Members because they apply to all Members and non-Members equally, and any differences among categories of fees are not unfairly discriminatory and are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated

⁷⁹ See the Definitions section of the Fee Schedule.

⁸⁰ See the Definitions section of the Fee Schedule.

⁸¹ See the Definitions section of the Fee Schedule.

⁸² See Securities Exchange Act Release No. 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR-C2-2018-006) and Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.10, page 45 (October 31, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf.

⁸³ See Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.10, page 224 (October 31, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf.

because they will apply uniformly to all Members and non-Members that choose to purchase a particular service based on their business need. Any Member or non-Member that chooses to purchase a particular product or service is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to purchase a particular product or service is based on objective differences in usage of the particular product or service among different Members and non-Member, which are still ultimately in the control of any particular Member or non-Member. The Exchange believes the proposed pricing is equitably allocated because of the service's or product's utility and value to market participants as compared to other like exchanges' products and services.

The Exchange further believes that the proposed fees are reasonable, fair and equitable, and non-discriminatory because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy.

EEM Trading Permit Fees. The Exchange believes the proposed Trading Permit fee for EEMs is equitably allocated and not unfairly discriminatory because the proposed fee would apply to each EEM in a uniform manner without regard to membership status or the extent of any other business with the Exchange or affiliated entities (*i.e.*, order flow provider, clearing services, etc.).

Market Maker Trading Permit Fees. The Exchange believes the proposed Trading Permit fees for Market Makers are equitable as the fees apply equally to all Market Makers based upon the number of class registrations or percentage of executed national ADV each month. The Exchange believes that assessing lower fees to Market Makers that quote in fewer classes is equitable because it will allow the Exchange to retain and attract smaller-scale Market Makers, which are an integral component of the options industry marketplace. Since these smaller Market Makers typically utilize less bandwidth and capacity on the Exchange network due to the lower number of quoted classes, the Exchange believes it is equitable to offer Market Makers Trading Permit fee tiers with lower rates based on a lower number of classes assigned or a lower percentage of executed national ADV. In addition, smaller Market Makers who want to quote greater number of classes or a higher percentage of executed national ADV, but have lower volume thresholds, the Exchange believes it is

equitable to offer such Market Makers a lower fee, designated in footnote "■" following the Market Maker Trading Permit fee table.

The Exchange believes it is equitable and not unfairly discriminatory to charge higher Trading Permit fees to Market Makers that quote a higher number of classes or execute higher percentages of volume on the Exchange because the System requires increased performance and capacity in order to provide the opportunity for Market Makers to quote in a higher number of options classes on the Exchange. Specifically, more classes that are actively quoted on the Exchange by a Market Maker will require increased memory for record retention, increased bandwidth for optimized performance, increased functionalities on each application layer, and increased optimization with regard to surveillance and monitoring of such classes quoted. As such, basing the higher Market Maker Trading Permit fees on the greater number of classes quoted in on any given day in a calendar month is equitable and not unfairly discriminatory when considering how the increased number of quoted classes directly impacts the resources required for the Exchange to operate for all market participants.

Network Connectivity Fees. The Exchange believes that the proposed fees for network connectivity to the primary/secondary facility and disaster recovery facility for Members and non-Members are equitably allocated because they would apply equally to all market participants that choose to purchase such connectivity products and services from the Exchange. Any participant that chooses to purchase the Exchange's connectivity products and services would be subject to the same fees, regardless of what type of business they operate or the use they plan to make of the products and services. Additionally, the fee increases would be applied uniformly to market participants without regard to Exchange membership status or the extent of any other business with the Exchange or affiliated entities.

The Exchange believes that the proposed fees are equitably allocated among anticipated users of the network connectivity as the Exchange expects that users of 10Gb ULL connections will consume substantially more bandwidth and network resources than users of 1Gb connections. It is the experience of the Exchange and its affiliated exchanges that this is the case as 10Gb ULL connection users have historically accounted for more than 99% of message traffic over the network, which

drives increased capacity utilization, while the users of the 1Gb connections account for less than 1% of message traffic over the network. In the experience of the Exchange and its affiliates, users of the 1Gb connections do not have the same business needs for the high-performance network as 10Gb ULL users.

The Exchange's high-performance network and supporting infrastructure (including employee support), provides unparalleled system throughput. To achieve a consistent, premium network performance, the Exchange built out and must now maintain a network that has the capacity to handle the message rate requirements of its most heavy network consumers. These billions of messages per day consume the Exchange's resources and significantly contribute to the overall increase in storage and network transport capabilities. The Exchange must analyze its storage capacity on an ongoing basis to ensure it has sufficient capacity to store these messages to satisfy its record keeping requirements under the Exchange Act.⁸⁴ Given this difference in network utilization rate, the Exchange believes that it is equitable and not unfairly discriminatory that the 10Gb ULL users continue to pay higher network connectivity fees.

FIX, CTD, and FXD Port Fees. The Exchange believes that the proposed FIX, CTD and FXD Port fees are equitable and non-discriminatory because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy. The proposed fees for each type of port (FIX, CTD or FXD) does not depend on any distinctions between Members, customers, broker-dealers, or any other entity. The proposed fee will be assessed solely based on the number of FIX, CTD or FXD Ports an entity selects and not on any other distinction applied by the Exchange. The Exchange believes offering a tiered fee structure where the fee for FIX Ports decreases with the number utilized is equitable and not unfairly discriminatory because FIX Ports are used for order entry compared to CTD and FXD Ports, which are used to provide messages concerning trade execution, cancellation, and post-trade clearing information and, in the Exchange's experience, Members tend to utilize fewer such ports overall. Further, the Exchange believes the proposed fees

⁸⁴ 17 CFR 240.17a-1 (recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies and the Municipal Securities Rulemaking Board).

for FIX, CTD and FXD Ports are reasonable because for one monthly fee for each port, Members are able to access all matching engines.

Purge Port Fees. The Exchange believes that the proposed Purge Port fees are equitable because Purge Ports are completely voluntary as they relate solely to optional risk management functionality. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Maker is required or under any regulatory obligation to utilize Purge Ports. In fact, some market participants, in particular the larger firms, could and do build similar risk functionality in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange for Market Makers that chose to purchase them.

Purge Ports enhance Market Makers' ability to manage quotes, which, in turn, improves their risk controls to the benefit of all market participants. The Exchange also believes that the proposed Purge Port fees are not unfairly discriminatory because they will apply uniformly to all Market Makers that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Market Makers that voluntarily select this service option will be charged the same amount for the same services based upon the number of matching engines. The Exchange also believes that offering Purge Ports at the matching engine level promotes risk management across the industry, and thereby facilitates investor protection. Offering matching engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality. As such, the Exchange believes the proposed fees are equitable and not unfairly discriminatory.

Limited Service MEI Port Fees. The Exchange believes the proposed fee for Limited Service MEI Ports is not unfairly discriminatory because it would apply to all Market Makers equally. All Market Makers remain

eligible to receive four free Limited Service MEI Ports per matching engine and those that elect to purchase more would be subject to the same monthly rate depending upon the number they choose to utilize. In the Exchange's experience, certain Market Makers choose to purchase additional Limited Service MEI Ports based on their own particular trading/quoting strategies and feel they need a certain number of ports to execute on those strategies. Other Market Makers may continue to choose to only utilize the free Limited Service MEI Ports to accommodate their own trading or quoting strategies, or other business models. All Market Makers elect to receive or purchase the amount of Limited Service MEI Ports they require based on their own business decisions and all Market Makers would be subject to the same fee structure. Every Market Maker may receive up to four free Limited Service MEI Ports and those that choose to purchase additional Limited Service MEI Ports may elect to do so based on their own business decisions and would continue to be subject to the same monthly fees.

The Exchange believes that the proposed fee for Limited Service MEI Ports is reasonable, equitable, and not unfairly discriminatory because it is designed to align fees with services provided, will apply equally to all Market Makers that are assigned Limited Service MEI Ports, and minimizes barriers to entry by providing all Market Makers with four free Limited Service MEI Ports. As a result, there are several Market Makers that are not subject to any additional LSP fees. In contrast, other exchanges generally charge in excess of \$450 per port (the fee the Exchange proposes to charge for Limited Service MEI Ports) without providing any initial ports for free.⁸⁵

The Exchange believes that the proposed Limited Service MEI Port fee structure is equitable and not unfairly discriminatory because it will continue to enable Market Makers to access the Exchange with four free ports before the proposed fees for additional Limited Service MEI Ports apply, thereby continuing to encourage order flow and liquidity from a diverse set of Market Makers, facilitating price discovery and

the interaction of orders. The Exchange notes that a substantial majority of Market Makers only utilize the four Limited Service MEI Ports provided for no fee. The proposed fee is designed to encourage Market Makers to be efficient with their Limited Service MEI Port usage. There is no requirement that any Market Maker maintain a specific number of Limited Service MEI Ports and a Market Maker may choose to maintain as many or as few of such ports as each Market Maker deems appropriate.

Full Service MEI Port Fees. The proposed fees for Full Service MEI Ports are not unfairly discriminatory because they would apply to all Market Makers equally. The Exchange's pricing structure for Full Service MEI Ports is similar to the pricing structure used by the Exchange's affiliates, MIAIX Pearl, MIAIX, and MIAIX Sapphire, for their Full Service MEI/MEO Port fees.⁸⁶ In the Exchange's experience, Members that are frequently in the highest tier for Full Service MEI Ports consume the most bandwidth and resources of the network.

To achieve a consistent, premium network performance, the Exchange must build out and maintain a network that has the capacity to handle the message rate requirements of its most heavy network consumers during anticipated peak market conditions. The need to support billions of messages per day consumes the Exchange's resources and significantly contributes to the overall need to increase network storage and transport capabilities. Thus, as the number of ports a Market Maker has increases, the related pull on Exchange resources may continue to increase.

The Exchange further believes that the proposed fees are reasonable, equitably allocated and not unfairly discriminatory because, for the flat fee in each tier, the Exchange provides each Member two Full Service MEI Ports for each matching engine to which that Member is connected. Unlike other options exchanges that provide similar port functionality and charge fees on a per port basis,⁸⁷ the Exchange offers

⁸⁶ See MIAIX Pearl Fee Schedule, Section 5)d); MIAIX Fee Schedule, Section 5)d)ii); and MIAIX Sapphire Fee Schedule, Section 5)d)ii).

⁸⁷ See NASDAQ Pricing Schedule, Options 7, Section 3, Ports and Other Services and NASDAQ Rules, General 8: Connectivity, Section 1. Co-Location Services (similar to the MIAIX Pearl Options' MEO Ports, SQF ports are primarily utilized by Market Makers); ISE Pricing Schedule, Options 7, Section 7, Connectivity Fees and ISE Rules, General 8: Connectivity; NYSE American Options Fee Schedule, Section V.A. Port Fees and Section V.B. Co-Location Fees; GEMX Pricing Schedule, Options 7, Section 6, Connectivity Fees and GEMX Rules, General 8: Connectivity.

⁸⁵ See Nasdaq, Options 7: Pricing Schedule, Section 3(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207> (providing zero free ports and charging \$750 per QUO Port, which is analogous to the Exchange's Limited Service MEI Ports) and Nasdaq MRX, Options 7: Pricing Schedule, Section 6(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/mrx/rules/MRX%20Options%207> (providing zero free ports and charging \$650 per OTTO Port, which is analogous to the Exchange's Limited Service MEI Ports).

Full Service MEI Ports as a package and provides Market Makers with the option to receive up to two Full Service MEI Ports per matching engine to which it connects. The Exchange currently has twelve matching engines, which means Market Makers may receive up to twenty-four Full Service MEI Ports for a single monthly fee, which can vary based on certain volume percentages or classes the Market Maker is registered in. Assuming a Market Maker connects to all twelve matching engines during the month, and achieves the highest tier for that month, with two Full Service MEI Ports per matching engine, this would result in a cost of approximately \$1,000 per Full Service MEI Port (\$24,000 divided by 24, and rounded up to the nearest dollar).

The Exchange believes the proposed reduced Full Service MEI Port fee for Market Makers that fall within the 3rd, 4th, and 5th levels of the Full Service MEI Port fee table and certain volume thresholds are met is not unfairly discriminatory because this lower monthly fee is designed to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise execute a significant amount of volume on the Exchange. The Exchange believes that, by continuing to offer a lower fixed cost to Market Makers that execute less volume, the Exchange will continue to retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. The Exchange believes it is beneficial to incentivize these additional Market Makers to register to make markets on the Exchange to increase liquidity as the Exchange begins operations. Increased liquidity from a diverse set of market participants helps facilitate price discovery and the interaction of orders, which benefits all market participants of the Exchange. Since these smaller-scale Market Makers may utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable, equitably allocated and not unfairly discriminatory to offer such Market Makers a lower fixed cost. The Exchange notes that its affiliated markets, MIAX Pearl, MIAX, and MIAX Sapphire, offer a similar reduced fee for

their Full Service MEO/MEI Ports for smaller-scale Market Makers.⁸⁸

* * * * *

For all of the foregoing reasons, the Exchange believes that the proposed fees are equitably allocated and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,⁸⁹ the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

EEM Trading Permit Fees

The Exchange believes the proposed Trading Permit fee for EEMs does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed fee does not favor certain categories of market participants in a manner that would impose a burden on competition. The proposed fee is the same for all EEMs of different sizes and business models without regard to membership status or the extent of any other business with the Exchange or affiliated entities.

Market Maker Trading Permit Fees

The Exchange believes that the proposed Trading Permit fees for Market Makers do not place certain market participants at a relative disadvantage to other market participants because the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the fee rates are designed in order to provide objective criteria for Market Makers of different sizes and business models that best matches their order and quoting activity on the Exchange. Further, the Exchange believes that the proposed Market Maker Trading Permit fees will not impose a burden on intra-market competition because, when these fees are viewed in the context of the overall activity on the Exchange, Market Makers: (1) consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high touch network support services provided by the Exchange and its staff, including more costly network

monitoring, reporting and support services, resulting in a much higher cost to the Exchange. The Exchange notes that the majority of customer demand comes from Market Makers, whose transactions make up a majority of the volume on the Exchange. Further, other member types, *i.e.* EEMs, take up significantly less Exchange resources and costs. As such, the Exchange does not believe charging Market Makers higher Trading Permit fees than other member types will impose a burden on intra-market competition.

The Exchange believes that the increasing fees under the tiered Market Maker Trading Permit fee structure do not impose a burden on intra-market competition because the tiered structure continues to take into account the number of classes quoted by each individual Market Maker or percentage of total national ADV. The Exchange's system requires increased performance and capacity in order to provide the opportunity for each Market Maker to quote in a higher number of options classes on the Exchange. Specifically, the more classes that are actively quoted on the Exchange by a Market Maker requires increased memory for record retention, increased bandwidth for optimized performance, increased functionalities on each application layer, and increased optimization with regard to surveillance and monitoring of such classes quoted. As such, basing the Market Maker Trading Permit fee on the greatest number of classes quoted in on any given day in a calendar month, or percentage of total national ADV, does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act when taking into account how the increased number of quoted classes directly impact the costs and resources for the Exchange.

Network Connectivity Fees

The Exchange believes that the proposed network connectivity fees for Members and non-Members do not place certain market participants at a relative disadvantage to other market participants or affect the ability of such market participants to compete. The proposed fees will apply uniformly to all market participants regardless of the number of 1Gb or 10Gb ULL connections they choose to purchase to the primary/secondary facility or the disaster recovery facility. The proposed fees do not favor certain categories of market participants in a manner that would impose an undue burden on competition.

The Exchange does not believe that the proposed fees for connectivity

⁸⁸ See MIAX Pearl Fee Schedule, Section 5)d), note “***”; MIAX Fee Schedule, Section 5)d)ii), note “***”; and MIAX Sapphire Fee Schedule, Section 5)d), note “b”.

⁸⁹ 15 U.S.C. 78f(b)(8).

services place certain market participants at a relative disadvantage to other market participants because the proposed connectivity pricing is associated with relative usage of the Exchange by each market participant and does not impose a barrier to entry to smaller participants. The Exchange believes its proposed pricing is reasonable and, when coupled with the availability of third-party providers that also offer connectivity solutions, participation on the Exchange is competitive for all market participants, including smaller trading firms. The connectivity services purchased by market participants typically increase based on their additional message traffic and/or the complexity of their operations. The market participants that utilize more connectivity services typically utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the proposed fees for connectivity services do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed connectivity fees reflects the network resources consumed by the various size of market participants and the costs to the Exchange of providing such connectivity services.

FIX, CTD and FXD Port Fees

The Exchange believes that the proposed FIX, CTD and FXD Port fees do not place certain market participants at a relative disadvantage to other market participants because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy. The proposed fees for each type of port (FIX, CTD or FXD) do not depend on any distinctions between Members, customers, broker-dealers, or any other entity. The proposed fee will be assessed solely based on the number of FIX, CTD or FXD Ports an entity selects and not on any other distinction applied by the Exchange.

Purge Port Fees

The Exchange believes that the proposed Purge Port fees do not place certain market participants at a relative disadvantage to other market participants because Purge Ports are completely voluntary as they relate solely to optional risk management functionality. Purge Ports enhance Members' ability to manage orders, which, in turn, improves their risk controls to the benefit of all market participants. Further, the proposed fees

apply uniformly to all Members that choose to use the optional Purge Ports and no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily choose to utilize Purge Ports will be charged the same amount based upon the number of matching engines for each set of Purge Ports in use.

Limited Service MEI Port Fees

The Exchange does not believe its proposed fee for Limited Service MEI Ports will place certain market participants at a relative disadvantage to other market participants. All Market Makers would be eligible to receive four free Limited Service MEI Ports and those that elect to purchase more would be subject to the same monthly fee. All Market Makers purchase the amount of Limited Service MEI Ports they require based on their own business decisions and similarly situated firms are subject to the same fee.

Full Service MEI Port Fees

The Exchange does not believe proposed fees for Full Service MEI Ports will place certain market participants at a relative disadvantage to other market participants because they would apply to all Market Makers equally depending on the number of classes the Market Maker is registered to quote in or the percentage of national ADV. The Exchange believes the proposed fees will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in the Exchange's experience, Market Makers that are frequently in the highest tier for Full Service MEI Ports consume the most bandwidth and resources of the network.

The Exchange further believes that the proposed fees do not place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete because, for the flat fee in each tier, the Exchange provides each Market Maker two Full Service MEI Ports for each matching engine to which that Market Maker is connected. Further, the Exchange offers a reduced Full Service MEI Port fee for Market Makers that fall within the 3rd, 4th and 5th levels of the Full Service MEI Port fee table, which lower monthly fee is designed to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise

execute a significant amount of volume on the Exchange.

The Exchange believes that, by continuing to offer a lower fixed cost to Market Makers that execute less volume, the Exchange will continue to retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Accordingly, the Exchange believes the reduced fee will promote competition by incentivizing these additional Market Makers to register to make markets on the Exchange to increase liquidity.

Inter-Market Competition

The Exchange does not believe that the proposed changes will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. In contrast, the Exchange believes that, without the fee changes proposed herein, the Exchange is potentially at a competitive disadvantage to certain other exchanges that have in place comparable or higher fees for similar services, as described above. The Exchange believes that non-transaction fees can be used to foster more competitive transaction pricing and additional infrastructure investment and there are other options markets of which market participants may connect to trade options that charge higher or comparable rates as the Exchange for similar services and products. Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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,⁹⁰ and Rule 19b-4(f)(2)⁹¹ 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

⁹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹¹ 17 CFR 240.19b-4(f)(2).

interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2026-08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-EMERALD-2026-08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-EMERALD-2026-08 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07042 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105181; File No. SR-CBOE-2026-028]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 5.1 to Permit the Exchange to List Binary Options on Exclusively Listed Index Options Designated for Trading Under Chapter 4, Section B During Global Trading Hours ("GTH") and Curb Trading Hours ("Curb")

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 27, 2026, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rule 5.1 to permit the Exchange to list binary options³ on exclusively listed index options designated for trading under Chapter 4, Section B during Global Trading Hours ("GTH") and Curb Trading Hours ("Curb"). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.1 to permit the Exchange to list binary options on exclusively listed index options designated for trading under Chapter 4, Section B during GTH and Curb.

By way of background, Rule 5.1(c) provides that the Exchange may designate as eligible for trading during GTH⁴ any exclusively listed index option⁵ designated for trading under Chapter 4, Section B. Currently, options on S&P 500 Stock Index ("SPX"), Cboe Volatility Index ("VIX"), Mini-SPX Index ("XSP"), Russell 2000 Index ("RUT"), Mini-RUT Index ("MRUT"), Cboe Magnificent 10 Index ("MGTN"), Cboe Bitcoin U.S. ETF Index ("CBTX"), and Cboe Mini Bitcoin U.S. ETF Index ("MBTX") are approved for trading during GTH. Further, under Rule 5.1(c), if the Exchange designates a class of index options as eligible for trading during GTH, FLEX Options with the same underlying index are also deemed eligible for trading during GTH.

Rule 5.1(d) provides that the Exchange may designate as eligible for trading during Curb⁶ any exclusively listed option that the Exchange has designated for trading under Chapter 4, Section B. Currently SPX, VIX, XSP, RUT, MRUT, and MGTN options are approved for trading during Curb. Further, under Rule 5.1(d), if the

⁴ Except under unusual conditions as may be determined by the Exchange or the Holiday hours set forth in Rule 5.1(d), Global Trading Hours are from 8:15 p.m. (previous day) to 9:25 a.m. on Monday through Friday. See Rule 5.1(c).

⁵ An "exclusively listed option" is an option that trades exclusively on an exchange because the exchange has an exclusive license to list and trade the option or has the proprietary rights in the interest underlying the option. An exclusively listed option is different than a "singly listed option," which is an option that is not an "exclusively listed option" but that is listed by one exchange and not by any other national securities exchange.

⁶ Except under unusual conditions as may be determined by the Exchange, or the Holiday hours set forth in Rule 5.1(e), Curb Trading Hours are from 4:15 p.m. to 5:00 p.m. on Monday through Friday. See Rule 5.1(d).

⁹² 17 CFR 200.30-3(a)(12).

Exchange designates a class of index options as eligible for trading during Curb, FLEX Options with the same underlying index are also deemed eligible for trading during Curb.

By way of further background, the Exchange originally adopted the GTH trading session due to global demand from investors to trade SPX and VIX options, as alternatives for hedging and other investment purposes, particularly as a complementary investment tool to VIX futures.⁷ In response to customer demand for additional options to trade during the GTH trading session for similar purposes, the Exchange later designated XSP options to be eligible for trading during GTH.⁸ The Exchange later adopted a Curb trading session, to further maximize the overlap in time that such designated options could trade.

The Exchange now proposes to permit the Exchange to list binary options on exclusively listed index options designated for trading under Chapter 4, Section B during GTH and Curb. The proposed rule change amends Rules 5.1(c) and (d) to state that if the Exchange designates a class of index options as eligible for trading during GTH or Curb, respectively, FLEX Options and binary options with the same underlying index are also deemed eligible for trading during GTH or Curb, respectively.

The Exchange may approve for listing and trading binary option contracts on a broad-based index selected in accordance with Rule 4.10 and the Interpretations and Policies thereunder.⁹ Pursuant to Rule 5.1(b)(2)(G), Regular Trading Hours (“RTH”) ¹⁰ for binary index options are the same as RTH for options on the same underlying index. Under the proposed rule change, if the Exchange designates a class of broad-based index options as eligible for GTH or Curb trading, binary options on the same underlying index are automatically deemed eligible for the same extended hours, similar to how FLEX Options are considered under current rules. This

proposed change merely extends the hours during which binary index options may trade on the Exchange; it does not alter the underlying eligibility criteria. The Exchange believes there is demand from investors for binary options with the same underlying as options that currently trade during GTH and Curb, particularly given the availability of competitive products nearly 24 hours a day (as further discussed below).

As noted above, Rules 5.1(c) and (d) permit the Exchange to designate any exclusively listed index option eligible under Chapter 4, Section B as eligible for GTH and Curb trading; currently, SPX, VIX, XSP, RUT, and MRUT options are the broad-based index options approved for trading during GTH and Curb. Thus, under the proposed rule change, binary options on SPX, VIX, XSP, RUT, and MRUT would be eligible for GTH and Curb trading.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it believes that the Exchange has the necessary systems capacity to handle any potential additional traffic associated with trading of binary options on exclusively listed index options designated for trading under Chapter 4, Section B during GTH and Curb. The Options Price Reporting Authority (“OPRA”) also informed the Exchange it believes it has the necessary systems capacity to handle the additional traffic associated with the listing of binary options that would result from this proposed rule change.

The Exchange does not believe that its Trading Permit Holders (“TPHs”) will experience any capacity issues as a result of this proposal and represents that it will monitor the trading volume associated with any binary options series listed as a result of this proposal and the effect (if any) of these series on market fragmentation and on the capacity of the Exchange’s automated systems. For its initial binary options launch, the Exchange intends to list the same strikes during GTH as are listed during RTH.

In addition to this, the Exchange believes that its existing surveillance and reporting safeguards in place are adequate to deter and detect possible manipulative behavior which might arise from listing and trading binary options on exclusively listed index options designated for trading under Chapter 4, Section B during GTH and Curb. Furthermore, during GTH and Curb, binary options would trade in accordance with applicable Exchange Rules including governing customer accounts, position and exercise limits,

margin requirements and trading halt procedures, among other Rules, which are designed to prevent fraudulent and manipulative acts and practices. Clearing of the binary options as proposed will be supported by current Options Clearing Corporation processes. The proposed rule change makes no changes to the trading rules applicable to GTH or Curb.¹¹

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) ¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) ¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Specifically, the proposed rule change extends to binary broad-based index options the same GTH and Curb trading eligibility already available to exclusively listed standard broad-based index options on the same underlying indexes, similar to how FLEX Options are considered under current rules. Additionally, the proposed rule change

⁷ See Securities Exchange Act Release No. 34–73017 (September 8, 2014), 79 FR 54758 (September 12, 2014) (SR–CBOE–2014–062).

⁸ See Securities Exchange Act Release No. 34–75914 (September 14, 2015), 80 FR 56522 (September 18, 2015) (SR–CBOE–2015–079).

⁹ See Rule 4.16(c)(1). Binary options are a separate class from other options overlying the same broad-based index. The maintenance listing standards with respect to options on broad-based indexes set forth in Rule 4.10 and the Interpretations and Policies thereunder apply to binary options on broad-based indexes as well. See Rule 4.16(d).

¹⁰ Rule 5.1(b)(2) defines RTH for index options as 9:30 a.m. to 4:15 p.m. (Eastern Time), subject to certain exceptions.

¹¹ For example, business conduct rules in Chapter 8 and rules related to doing business with the public in Chapter 9 will continue to apply during the GTH session. Additionally, a broker-dealer’s due diligence and best execution obligations apply during the GTH trading session. As there will still be no open outcry trading on the floor during the GTH trading, Chapter 5, Section G will continue not to apply as such rules pertain to manual order handling and open-outcry trading.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

will permit the Exchange to list binary options overlying broad-based indexes with more overlapping hours on a national securities exchange as alternatives to products that are structured in substantially the same manner as binary options currently available on other platforms. Various market platforms that are not registered as national securities exchanges currently offer products structured in substantively the same manner as binary options on broad-based indexes that the Exchange may list pursuant to current Rules. These platforms are open 24 hours a day, seven days a week, and offer binary option products overlying securities indexes. However, as these venues are not national securities exchanges, they do not offer investors the benefits of centralized liquidity, market transparency, or securities regulations intended to protect investors. The Exchange believes listing competitive products on a securities exchange during additional hours may will offer investors an alternative to trade these products outside of the regular trading day in a centralized, regulated, and standardized marketplace, which promotes price discovery and transparency. The Exchange believes its proposal would contribute to leveling the playing field with these alternative markets.

As noted above, the proposed change does not alter the criteria by which the Exchange designates index options as eligible for trading during GTH or Curb, nor does it alter the underlying eligibility criteria for binary index options. Rather, the proposed change ensures that binary index options, which already share the same RTH as corresponding options on the same underlying index,¹⁵ are treated consistently with respect to GTH and Curb trading designations. Extending GTH and Curb eligibility to binary index options on the same underlying broad-based indexes promotes consistency across products and provides market participants with a more uniform trading experience.

The listing of binary options for trading during GTH and Curb will provide more investment opportunities within the options trading industry that is consistent with the continued globalization of the securities markets. Extending the timeframe in which investors may trade eligible binary options is designed to provide investors with the ability to manage risk more efficiently, react to global macroeconomic events as they are

happening and adjust binary options positions nearly around the clock.

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 applies uniformly to all binary index options on any underlying index for which the Exchange has designated a corresponding class of index options as eligible for GTH or Curb trading. If the Exchange determines to list eligible binary options for trading during GTH and Curb, all TPHs will be able, but not be required, to trade such binary options during GTH and Curb trading sessions. The proposed rule change is merely extending the permissible trading hours of a product that may trade on the Exchange during RTH.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because provides the Exchange may only designate certain exclusively listed index options as eligible for trading during GTH or Curb. As such, any binary options eligible for trading during GTH or Curb as a result of the proposed rule change would be proprietary Exchange products. To the extent that listing such binary options on the Exchange during GTH and Curb may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Other exchanges are free to update their rules to permit extended trading hours in products that trade on their markets.

Ultimately, the proposal is designed to increase competition for order flow in binary options. As noted above, substantively similar products to binary broad-based index options are available on various other markets, which make their products available 24 hours a day. The proposed rule change will permit the Exchange to list binary options on the same underlying indexes as these markets during extended trading hours (nearly 24 hours a day, five days a week) that further overlap with the hours of those markets, which will ultimately promote competition by offering investors an additional venue to trade these products outside of the regular trading day.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 Act¹⁶ and Rule 19b-4(f)(6)¹⁷ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-028 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.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 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.

¹⁵ See Rule 5.1(b)(2)(G).

All submissions should refer to file number SR-CBOE-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 the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2026-028 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07043 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105182; File No. SR-NYSEAMER-2026-27]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the Lists of Regulatory Halts and Operational Halts

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 27, 2026, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 lists of Regulatory Halts and Operational Halts referenced in Rule 7.18E

("Trading Halts"). The proposed rule change is available on the Exchange's website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE American LLC ("NYSE American" or the "Exchange") proposes to amend the lists of Regulatory Halts and Operational Halts referenced in Rule 7.18E ("Trading Halts").

In 2025, the Exchange filed the "Original Filing,"³ which amended Rule 7.18E to effectuate amendments to Second Restatement of the CTA Plan and the Restated CQ Plan (together, the "Amended CTA Plan").⁴ The Original Filing amended the rule's categories of regulatory and operational halts, improved the rule's clarity, and adopted defined terms from the Amended CTA Plan. Since that time, the Exchange's affiliate exchanges New York Stock Exchange LLC, NYSE Arca, Inc., NYSE

National, Inc., and NYSE Texas, Inc. (collectively the "Affiliate Exchanges") have all filed similar versions of the rule,⁵ as have numerous other SROs.⁶ Such rule filings are effective but not yet operative; as provided for in the Original Filing, the amended Trading Halt rules of the Exchange and the various other SROs will be implemented simultaneously in conjunction with the Processors and the other SROs implementing related technology and procedural changes.

The Exchange now proposes to make several minor changes to Rule 7.18E to make it consistent with the Affiliate Exchanges' amended Trading Halt rules. Specifically, the Exchange proposes to amend the lists of conditions when the Exchange will or may declare Regulatory Halts and Operational Halts.

Regulatory Halts

Rule 7.18E(b)(1)(A) and (B) list the Exchange's authority to initiate a Regulatory Halt. Subsection (A), titled "Mandatory Halts," currently provides that the Exchange will declare a Regulatory Halt: (i) "pursuant to Rule 7.11E concerning Limit Up Limit Down;" (ii) "pursuant to Rule 7.12E concerning Market-Wide Circuit Breaker;" (iii) "as provided for in Sections 107 and 402 of the Exchange's Company Guide;" or (iv) "for a security for which the Exchange is the Primary Listing Market before the end of the Late Trading Session on the day immediately before the market effective date of the reverse stock split ('Reverse Stock Split Halt')."

Similarly, Subsection (B), titled "Discretionary Halts," currently provides that the Exchange may declare a Regulatory Halt in trading for any security for which it is the Primary Listing Market as follows: (i) "as provided for in Sections 107 and 402 of the Exchange's Company Guide;" (ii) "of a security that is the subject of an initial pricing on the Exchange that has not been listed on a national securities exchange immediately prior to initial pricing ('Initial Listing Regulatory Halt');" (iii) "if it determines there is a

³ See Securities Exchange Act Release Nos. 102810 (April 10, 2025), 90 FR 16041 (April 16, 2025) (SR-NYSEAMER-2025-19).

⁴ On February 3, 2021, the CTA/CQ Plan participants ("Participants") filed Amendment 36 to the Second Restatement of the CTA Plan and Amendment 27 to the Restated CQ Plan, to revise provisions governing regulatory and operational halts. See Letter from Robert Books, Chair, CTA/CQ Operating Committee, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 3, 2021. The SEC approved the amendments on May 28, 2021 (the "Amended CTA Plan"). See Securities Exchange Act Release No. 92070 (May 28, 2021), 86 FR 29849 (June 3, 2021) (SR-CTA/CQ-2021-01). The SEC also approved similar amendments to the Nasdaq UTP Plan. See Securities Exchange Act Release No. 92071 (May 28, 2021), 86 FR 29846 (June 3, 2021) (S7-24-89) (the "Amended Nasdaq UTP Plan"). The Amended CTA Plan and the Amended Nasdaq UTP Plan include provisions requiring Participant self-regulatory organizations ("SROs") to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the Amended CTA Plan and the Amended Nasdaq UTP Plan include provisions similar to the changes proposed by the Exchange in this filing.

⁵ See Securities Exchange Act Release Nos. 103356 (June 30, 2025), 90 FR 29600 (July 3, 2025) (SR-NYSE-2025-21); 103476 (July 16, 2025), 90 FR 34314 (July 21, 2025) (SR-NYSEARCA-2025-50); 103698 (August 13, 2025), 90 FR 40108 (August 18, 2025) (SR-NYSEENAT-2025-17); 103699 (August 13, 2025), 90 FR 40114 (August 18, 2025) (SR-NYSETEX-2025-23).

⁶ See, e.g., Securities Exchange Act Release Nos. 95069 (June 8, 2022), 87 FR 36018 (June 14, 2022) (SR-NASDAQ-2022-017); 96574 (December 22, 2022), 87 FR 80213 (December 29, 2022) (SR-Phlx-2022-49); 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023) (SR-PEARL-2023-11); and 97824 (June 29, 2023), 88 FR 43159 (July 6, 2023) (SR-MEMX-2023-11).

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

SIP Outage, Material SIP Latency, or Extraordinary Market Activity” as defined in the Rule; or (iv) “in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.”

The Exchange proposes to revise these lists to cross-reference several other provisions of the Exchange’s Rules that give it authority to initiate a Regulatory Halt. Such additions are permissible under the Amended CTA Plan, which expressly preserves the Exchange’s existing halt authority by providing in Section XI(a)(iii)(1) that a Primary Listing Exchange may declare a Regulatory Halt “as provided for in the rules of the Primary Listing Market.”⁷

First, the Exchange proposes to add to the list of “Mandatory Halts” in Subsection (A) a provision regarding a “Dissemination Halt,” which would require the Exchange to issue a Regulatory Halt if it becomes aware that, with respect to Derivative Securities Products listed on the Exchange for which a Net Asset Value (“NAV”) (and in the case of Managed Fund Shares under Rule 8.600E and Managed Trust Securities under Rule 8.700E, a Disclosed Portfolio) is disseminated, such NAV or Disclosed Portfolio is not being disseminated to all market participants at the same time. This proposed rule is based on the Exchange’s Rules 8.600E and 8.700E. This Dissemination Halt is included in the Trading Halt rules of the Exchange’s Affiliate Exchanges and is not novel.⁸

Second, the Exchange proposes to add to both the list of “Mandatory Halts” in Subsection (A) and the list of “Discretionary Halts” in Subsection (B) a provision entitling the Exchange to issue Regulatory Halts “as provided for elsewhere in the Rules of the Exchange.” The proposed rule text lists various non-exclusive provisions of the Exchange’s Rules that provide for mandatory and discretionary halts, mostly for violations of the Exchange’s requirements concerning listing, delisting, and maintaining listings of certain types of securities, and regarding the public dissemination of material information. Such “catch-all” provisions are included in the Trading Halt rules of the Exchange’s Affiliate Exchanges and are not novel.⁹ The reference in current Rule 7.18E(b)(1)(A)(iii) to “Sections 107 and 402 of the Exchange’s Company Guide” would be relocated and incorporated

into this provision in proposed Subsection (A)(v) and Subsection (B)(iv).

Third, the Exchange proposes to reorder these lists to conform to their numbering in the Trading Halt rules of the Affiliate Exchanges.¹⁰

The proposed rule text would provide:

- (A) Mandatory Halts. The Exchange will declare a Regulatory Halt:
 - (i) pursuant to Rule 7.11E concerning Limit Up Limit Down;
 - (ii) pursuant to Rule 7.12E concerning Market-Wide Circuit Breaker;
 - (iii) for a security for which the Exchange is the Primary Listing Market before the end of the Late Trading Session on the day immediately before the market effective date of the reverse stock split (“Reverse Stock Split Halt”);
 - (iv) if the Exchange becomes aware that, with respect to Derivative Securities Products listed on the Exchange for which a Net Asset Value (“NAV”) (and in the case of Managed Fund Shares under Rule 8.600E and Managed Trust Securities under Rule 8.700E, a Disclosed Portfolio) is disseminated, such NAV or Disclosed Portfolio is not being disseminated to all market participants at the same time (“Dissemination Halt”); or
 - (v) as provided for elsewhere in the Rules of the Exchange, including but not limited to Rules 5.1E, 5.2E, 5.5E, 8.3E, 8.12E, 8.100E, 8.200E, 8.202E, 8.204E, 8.400E, 8.500E, 8.600E, 8.700E, and Sections 107 and 402 of the Exchange’s Company Guide, concerning requirements for listing, delisting, and maintaining listings of certain types of securities, and regarding the public dissemination of material information.

(B) Discretionary Halts. The Exchange may declare a Regulatory Halt in trading for any security for which it is the Primary Listing Market as follows:

- (i) of a security that is the subject of an initial pricing on the Exchange that has not been listed on a national securities exchange immediately prior to initial pricing (“Initial Listing Regulatory Halt”);
- (ii) if it determines there is a SIP Outage, Material SIP Latency, or Extraordinary Market Activity;
- (iii) in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market; or
- (iv) as provided for elsewhere in the Rules of the Exchange, including but not limited to Rules 5.1E, 5.2E, 5.5E, 8.3E, 8.12E, 8.100E, 8.200E, 8.202E, 8.204E, 8.400E, 8.500E, 8.600E, 8.700E, and Sections 107 and 402 of the Exchange’s

Company Guide, concerning requirements for listing, delisting, and maintaining listings of certain types of securities, and regarding the public dissemination of material information.

Operational Halts

The Exchange also proposes to amend Rule 7.18E(c)(1) regarding the instances when it may declare an Operational Halt. Operational Halts are non-regulatory in nature and apply only to the exchange that calls the halt. Rule 7.18E(c)(1) currently provides that the Exchange may declare an Operational Halt for any security trading on the Exchange: (A) “if is experiencing Extraordinary Market Activity on the Exchange;” (B) “if a Primary Listing Market imposes an Operational Halt in a security that is a derivative or component of a security listed on the Exchange;” or (C) “when otherwise necessary to maintain a fair and orderly market or in the public interest.”

The Exchange proposes to delete provision (B) above. Provision (B) aims to address the same issue as the “Dissemination Halt” language that the Exchange proposes to add to the list of Mandatory Regulatory Halts above, but was erroneously described in the Original Filing as an Operational Halt instead of a Regulatory Halt. The rule filings of the Exchange’s Affiliate Exchanges¹¹ all include “Dissemination Halt” as a type of Mandatory Regulatory Halt, and none of them include provision (B) as a type of Operational Halt. The Exchange proposes to correct this miscategorization in its rule and conform its rule to those of its Affiliate Exchanges.

Implementation

As noted above, the Original Filing is effective but not yet operative, and will be implemented in conjunction with the Processors and the other SROs implementing the necessary rule changes and related technology and procedural changes. The Exchange proposes that the instant rule filing would become operative in the same way. The Exchange will publish a trader notice at least 30 business days before implementing the proposed changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the

⁷ See Amended CTA Plan, *supra* note 5, at Section XI(a)(iii)(1).

⁸ See *supra* note 6.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Act.¹² Specifically, the proposal is consistent with Section 6(b)(5) of the Act¹³ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

The Amended CTA Plan expressly maintains the Exchange's existing halt authority by providing in Section XI(a)(iii)(1) that a Primary Listing Exchange may declare a Regulatory Halt "as provided for in the rules of the Primary Listing Market." The proposed additions to the lists of Mandatory and Discretionary Regulatory Halts in Rule 7.18E(b)(1) implement that provision of the Amended CTA Plan. In addition, such additions would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by including a more complete list of the provisions of the Exchange's rules that enable it to declare Regulatory Halts, therefore providing greater transparency to market participants.

The deletion of current provision (b) in Rule 7.18E(c)(1) concerning types of Operational Halts would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by correcting the erroneous categorization of the halt authority described in provision (b), which is more appropriately described in the "Dissemination Halt" language that the Exchange proposes to add to the list of Mandatory Regulatory Halts. The proposed change would also perfect the mechanism of a free and open market and a national market system by harmonizing the Exchange's rule in this respect with the Trading Halt rules of the Affiliate Exchanges, all of which include "Dissemination Halt" as a type of Mandatory Regulatory Halt, and none of which include provision (B) as a type of Operational Halt.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act¹⁴ in that it does not impose any

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below. Rather than impacting competition, the proposed change simply updates references to the Exchange's pre-existing halt authority and harmonizes aspects of the Exchange's Trading Halts rule to those of its Affiliate Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁰ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2026-27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2026-27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2026-27 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,
Assistant Secretary.

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¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78f(b)(8).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

²¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105183; File No. SR–MEMX–2026–09]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule Concerning Equities Transaction Pricing

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that, on March 31, 2026, MEMX LLC (“MEMX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Exchange's fee schedule applicable to Members³ (the “Fee Schedule”) pursuant to Exchange Rules 15.1(a) and (c). As is further described below, the Exchange proposes to: (i) modify the required criteria under Liquidity Provision Tier 4, and (ii) adopt a new Retail Sub-Dollar Liquidity Removal Tier. The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to: (i) modify the required criteria under Liquidity Provision Tier 4, and (ii) adopt a new Retail Sub-Dollar Liquidity Removal Tier, each as further described below.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 18 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15% of the total market share of executed volume of equities trading.⁴ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 2% of the overall market share.⁵ The Exchange in particular operates a “Maker-Taker” model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Liquidity Provision Tier 4

The Exchange currently provides a standard rebate of \$0.0015 per share for executions of orders in securities priced

at or above \$1.00 per share that add displayed liquidity to the Exchange (such orders, “Added Displayed Volume”).⁶ The Exchange also currently offers Liquidity Provision Tiers 1–5, among other volume-based tiers, under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. The Exchange now proposes to modify the required criteria under Liquidity Provision Tier 4, as further described below.

The Exchange currently provides an enhanced rebate of \$0.0028 per share for executions of Added Displayed Volume for Members that qualify for Liquidity Provision Tier 4 by achieving an ADAV⁷ (excluding Retail Orders)⁸ that is equal to or greater than 0.09% of the TCV.⁹ Now, the Exchange proposes to modify the required criteria such that a Member would qualify for Liquidity Provision Tier 4 by achieving an ADAV that is equal to or greater than 0.10% of the TCV. Thus, such proposed change would increase the ADAV % of TCV threshold but eliminate the Retail Order exclusion from the criteria, broadening the universe of executions which will be included in the Exchange's calculation of ADAV for purposes of qualifying for Liquidity Provision Tier 4.¹⁰ The Exchange is not proposing to change the rebate provided under such tier.

The proposed change to Liquidity Provision Tier 4 is designed to encourage Members to maintain or increase their order flow, including in the form of orders that add liquidity on the Exchange in order to qualify for the

⁶ The base rebate for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description “Added displayed volume” with a Fee Code of “B”, “D” or “J”, as applicable, on execution reports.

⁷ As set forth on the Fee Schedule, “ADAV” means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis.

⁸ A “Retail Order” means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization (“RMO”), provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 11.21(a).

⁹ As set forth on the Fee Schedule, “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

¹⁰ The pricing for Liquidity Provision Tier 4 is referred to by the Exchange on the Fee Schedule under the existing description, “Added displayed volume, Liquidity Provision Tier 4” with a Fee Code of “B4”, “D4”, or “J4”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Exchange Rule 1.5(p).

⁴ Market share percentage calculated as of March 30, 2026. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

⁵ *Id.*

enhanced Liquidity Provision Tier 4 rebate, which may contribute to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members.

Adoption of Retail Sub-Dollar Liquidity Removal Tier

The Exchange currently charges a standard fee of 0.28% of the total dollar value of the transaction for executions of orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, (such orders, “Removed Sub-Dollar Volume”), including Retail Orders. This standard fee is applicable to all such executions of Removed Sub-Dollar Volume (including those that qualify for any of the Exchange’s existing volume tiers). Now, the Exchange proposes to adopt a volume-based tier, known as the Retail Sub-Dollar Liquidity Removal Tier, under which the Exchange will charge a reduced fee for executions of Retail Orders in securities priced below \$1.00 per share that remove liquidity from the Exchange (such orders, “Removed Sub-Dollar Retail Volume”) for Members that achieve the volume criteria under such tier. Under the proposed Retail Sub-Dollar Liquidity Removal Tier 1, the Exchange will charge a reduced fee of 0.125% of the total dollar value of the transaction for executions of Removed Sub-Dollar Retail Volume for Members that qualify for such tier by achieving an ADAV in securities priced below \$1.00 per share that is equal to or greater than 20,000,000 shares.¹¹

The proposed Retail Sub-Dollar Liquidity Removal Tier is designed to attract liquidity to the Exchange in Sub-Dollar securities, thereby promoting price discovery and market quality on the Exchange in this category of securities. The Exchange notes the proposed Retail Sub-Dollar Liquidity Removal Tier is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges, including the Exchange.¹²

¹¹ The pricing for the proposed new Sub-Dollar Retail Liquidity Removal Tier is referred to by the Exchange on the Fee Schedule under the new description “Sub-Dollar Retail Liquidity Removal Tier 1” with a Fee Code of “Rr1B” on monthly invoices provided to Members.

¹² See, e.g., the NYSE Arca Equities Fees and Charges (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf), which shows a Sub-Dollar Retail Day Remove Tier, whereby members of NYSE Arca are charged a reduced fee of 0.20% of the total dollar value for executions of securities priced below \$1.00 per share for firms that qualify for such tier by achieving certain specified volume thresholds.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹³ in general, and with 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 its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. 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, 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

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange’s transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow, including displayed, liquidity-adding orders to the Exchange, both which the Exchange believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange notes that volume and quoting-based incentives (such as tiers)

have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits that are reasonably related to the value of an exchange’s market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that Liquidity Provision Tier 4, as modified by the proposed changes to the required criteria under such tier, is reasonable, equitable and not unfairly discriminatory, as such tier will continue to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, is available to all Members on an equal basis, and, as described above, is designed to encourage Members to maintain or increase their order flow, including in the form of displayed, liquidity-adding orders to the Exchange, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

The Exchange also believes that such tier reflects a reasonable and equitable allocation of fees and rebates, as the Exchange believes that, after giving effect to the changes proposed herein, the enhanced rebate for executions of Added Displayed Volume under such tier is commensurate with the corresponding required criteria under the tier and is reasonably related to the market quality benefits that the tier is designed to achieve, as described above. Additionally, the Exchange believes the proposed new Retail Sub-Dollar Liquidity Removal Tier is reasonable, in that it is comparable to pricing incentives adopted by other exchanges that charge a reduced fee for executions of Removed Sub-Dollar Retail Volume for firms that achieve a specified volume threshold.¹⁶

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act¹⁷ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange’s statement regarding

¹³ 15 U.S.C. 78f.

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).

¹⁶ See *supra* note 12.

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed rebates described herein are appropriate to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional order flow to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁸

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow, including displayed, liquidity-adding orders to the Exchange, in both Retail and non-Retail orders, in Sub-Dollar securities and securities priced at or above \$1.00 per share, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The opportunity to qualify for the proposed new criteria under the Liquidity Provision Tier 4 and the new Retail Sub-Dollar Liquidity Removal Tier 1, and thus receive the corresponding rebate for executions of Added Displayed Volume, and/or reduced fee for executions of Removed Retail Sub-Dollar Volume, as applicable,

would be available to all Members that meet the associated volume requirements in any month. As described above, the Exchange believes that, after giving effect to the changes proposed herein, the required criteria under each of the tiers described above is commensurate with the corresponding enhanced rebate/reduced fee under each such tier and is reasonably related to the enhanced liquidity and market quality that each such tier is designed to promote.

For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 17 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 15% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market.

Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Volume and Removed Sub-Dollar Retail Volume and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume and quoting-based tiers, which have been

widely adopted by exchanges, including the Exchange. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁹ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. SEC*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."²⁰ Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act²¹ and Rule 19b-4(f)(2)²² thereunder.

¹⁹ *Id.*

²⁰ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

²² 17 CFR 240.19b-4(f)(2).

¹⁸ See *supra* note 15.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2026-09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-MEMX-2026-09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing also 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-2026-09 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07045 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0059]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Regulation 14A (Commission Rules 14a-1 Through 14a-21 and Schedule 14A)

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission also is requesting approval from OMB to designate this existing collection of information (OMB Control No. 3235-0059) as a "common form" for purposes of PRA submissions¹ because the Board of Governors of the Federal Reserve System uses this information collection (under OMB Control No. 7100-0091). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation 14A (17 CFR 240.14a-1 through 14a-21) and Schedule 14A (17 CFR 240.14a-101) set forth the requirements for the dissemination, content, and filing of proxy or consent solicitation materials in connection with annual or other meetings of holders of a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934. Those rules and schedule

¹ See ROCIS PRA Module User Guide v. 8.2, at 110-111 (Mar. 2024), available at <https://www.rocis.gov/rocis/viewResources.do> ("A 'common form' is an information collection that can be used by two or more agencies, or government-wide, for the same purpose. The Common Forms Module [in ROCIS] allows a 'host' agency to obtain [OMB] approval of an information collection for use by one or more 'using' agencies. After OMB grants approval, any prospective using agency that seeks to collect identical information for the same purpose can obtain approval to use the 'common form' by providing its agency-specific information to OMB e.g., burden estimates and number of respondents). The host agency will indicate in the **Federal Register** notices that it is requesting approval of a common form and, if known, identify other agencies that may use the information collection. Both the **Federal Register** notices and the ICR should account only for the burden imposed by the host agency's use of the common form. Once the host agency has received approval from OMB, any agency will be able to request OMB approval for its use of the common form in ROCIS by providing its agency specific information to OMB (e.g., burden estimates and number of respondents). Additional public notice by those agencies will not be required.").

are intended to ensure that investors have the information necessary to enable them to vote in an informed manner. We estimate that Schedule 14A takes approximately 180.12 hours per response and is filed once per year by approximately 6,043 respondents, for a total of approximately 6,043 responses annually. We estimate that 75% of the 180.12 hours per response is carried internally by the respondent for annual reporting burden of 816,349 hours ((75% × 180.12 hours per response) × 6,043 responses). We estimate that 25% of the 180.12 hours per response is carried externally by outside professionals retained by the respondent at an estimated rate of \$600 per hour for a total annual cost burden of \$163,269,774 ((25% × 180.12 hours per response) × \$600 per hour × 6,043 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by June 12, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: April 8, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07046 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

²³ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105178; File No. SR–PEARL–2026–14]

Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAx Pearl Options Exchange Fee Schedule To Amend Non-Transaction Fees

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 25, 2026, MIAx PEARL, LLC (“MIAx Pearl” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule (the “Fee Schedule”) applicable to the Exchange’s options trading platform (“MIAx Pearl Options”) to update various non-transaction fees that have not been changed in a number of years to be comparable to fees charged by other like exchanges for similar products.³

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings> and at MIAx Pearl’s principal office.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange first launched operations in February 2017 to attract order flow and encourage market participants to experience the high determinism and resiliency of the Exchange’s trading Systems.⁴ To do so, the Exchange took a pragmatic and thoughtful approach to each fee proposal to encourage and increase participation in its marketplace while being mindful of fee levels charged by other exchanges for similar products and services. The Exchange now proposes to amend various fees for non-transaction related services to be in line with those of other options exchanges and enable it to continue to effectively compete with other exchanges who charge higher non-transaction fees and generate greater revenue. This proposal simply seeks to increase certain fees to reflect current market rates. The Exchange notes that significant portion of the fees for non-transaction related services that are the subject of this filing have not been increased since 2018.

Specifically, the Exchange proposes to amend the Fee Schedule to amend the following non-transaction fees: (1) monthly Trading Permit⁵ fees applicable to Electronic Exchange Members (“EEMs”)⁶ and Market Makers;⁷ (2) connectivity fees to the primary/secondary facility and disaster recovery facility for Members⁸ and non-

Members; and (3) FIX,⁹ MEO,¹⁰ MEO Purge,¹¹ CTD¹² and FXD¹³ Port fees.¹⁴

Monthly Trading Permit Fees

The Exchange proposes to amend the Fee Schedule to amend the amount of the monthly Trading Permit fees assessed to EEMs and Market Makers.

EEMs and EEM Clearing Firms

The Exchange notes that Trading Permit fees for EEMs and EEM Clearing Firms¹⁵ have not been amended since they were first adopted in May 2018.¹⁶ The Exchange assesses EEMs a Trading Permit fee based upon the type of interface that the EEM (except EEM

⁹ The term “FIX Port” means a FIX port that allows Members to send orders and other messages using the FIX protocol. See the Definitions Section of the Fee Schedule. “FIX Interface” means the Financial Information Exchange interface for certain order types as set forth in Exchange Rule 516. See *id.* and Exchange Rule 100.

¹⁰ “MEO Interface” or “MEO” means a binary order interface for certain order types as set forth in Rule 516 into the MIAx Pearl System. See *id.* and Exchange Rule 100.

¹¹ The term “MEO Purge Ports” provide Members with the ability to send quote purge messages to the MIAx Pearl System. MEO Purge Ports are not capable of sending or receiving any other type of messages or information. See the Definitions Section of the Fee Schedule.

¹² The term “CTD Port” or “Clearing Trade Drop Port” provides an Exchange Member with real-time clearing trade updates. The updates include the Member’s clearing trade messages on a low latency, real-time basis. The trade messages are routed to a Member’s connection containing certain information. The information includes, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); and (v) Exchange MPID for each side of the transaction, including Clearing Member MPID. See the Definitions Section of the Fee Schedule.

¹³ The term “FXD” or “FIX Drop Copy Port” means a messaging interface that provides a copy of real-time trade execution, trade correction and trade cancellation information to FIX Drop Copy Port users who subscribe to the service. FXD Port users are those users who are designated by an EEM to receive the information and the information is restricted for use by the EEM only. See the Definitions Section of the Fee Schedule.

¹⁴ The Exchange initially filed this proposal on December 31, 2025. See Securities Exchange Act Release No. 104591 (January 13, 2026), 91 FR 2227 (January 16, 2026) (SR–PEARL–2025–51). On January 30, 2026, the Exchange withdrew SR–PEARL–2025–51 and refiled this proposal. See Securities Exchange Act Release No. 104837 (February 12, 2026), 91 FR 7583 (February 18, 2026) (SR–PEARL–2026–06). On March 25, 2026, the Exchange withdrew SR–PEARL–2026–06 and refiled this proposal.

¹⁵ The term “EEM Clearing Firm” means an EEM that solely clears transactions on the Exchange and does not connect to the Exchange via either the FIX Interface or MEO Interface. See the Definitions Section of the Fee Schedule.

¹⁶ See Securities Exchange Act Release Nos. 82867 (March 13, 2018), 83 FR 12044 (March 19, 2018) (SR–PEARL–2018–07) and 83188 (May 8, 2018), 83 FR 22300 (May 14, 2018) (SR–PEARL–2018–12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ All references to the “Exchange” in this filing refer to MIAx Pearl Options. Any references to the equities trading facility of MIAx PEARL, LLC will specifically be referred to as “MIAx Pearl Equities.”

⁴ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁵ The term “Trading Permit” means a permit issued by the Exchange that confers the ability to transact on the Exchange. See Exchange Rule 100.

⁶ The term “Electronic Exchange Member” or “EEM” means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁷ The term “Market Maker” or “MM” means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange’s Rules. See Exchange Rule 100.

⁸ The term “Member” means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an “Electronic Exchange Member” or “Market Maker.” Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

Clearing Firms) uses to access the Exchange—either FIX or MEO—and the Non-Transaction Fees Volume-Based Tier achieved by the EEM in the relevant month.¹⁷ The monthly volume thresholds associated with each Tier are calculated as the total volume executed by a Member and its Affiliates¹⁸ on the Exchange across all origin types, not including Excluded Contracts,¹⁹ as compared to the TCV²⁰ in all MIAAX Pearl-listed options. In particular, EEMs that connect via the FIX or MEO Interface are assessed the following Trading Permit fees based upon total volume executed on the Exchange across all origin types, not including Excluded Contracts, as compared to the TCV in all MIAAX Pearl-listed options: 0.00% to 0.30% in Tier 1; above 0.30%

¹⁷ In general, the term “Non-Transaction Fees Volume-Based Tiers” means the tier structure that is applicable to certain non-transaction fees, as specifically set forth in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

¹⁸ The term “Affiliate” means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An “Appointed Market Maker” is a MIAAX Pearl Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an “Appointed EEM” is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAAX Pearl Market Maker) that has been appointed by a MIAAX Pearl Market Maker, pursuant to the following process. A MIAAX Pearl Market Maker appoints an EEM and an EEM appoints a MIAAX Pearl Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaaxglobal.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange’s acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* the Definitions Section of the Fee Schedule.

¹⁹ “Excluded Contracts” means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

²⁰ “TCV” means total consolidated volume calculated as the total national volume in those classes listed on MIAAX Pearl for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in the option classes of the affected Matching Engine). *See* the Definitions Section of the Fee Schedule.

to 0.60% in Tier 2; and above 0.60% in Tier 3.

For EEMs that connect via the FIX Interface, the Exchange currently assesses the following monthly Trading Permit fees:

- \$250 per Trading Permit for EEMs in Tier 1;
- \$350 per Trading Permit for EEMs in Tier 2; and
- \$450 per Trading Permit for EEMs in Tier 3.

For EEMs that connect via the MEO Interface, the Exchange assesses the following monthly Trading Permit fees:

- \$300 per Trading Permit for EEMs in Tier 1;
- \$400 per Trading Permit for EEMs in Tier 2; and
- \$500 per Trading Permit for EEMs in Tier 3.²¹

The Exchange assesses a flat monthly fee of \$250 per Trading Permit to each EEM Clearing Firm.

The Exchange now proposes to increase the Trading Permit fees assessed to EEMs and EEM Clearing Firms, which again, have not been increased since they were first adopted in 2018. In particular, for EEMs that connect via the FIX Interface, the Exchange proposes to assess the following monthly Trading Permit fees:

- \$300 per Trading Permit for EEMs in Tier 1;
- \$425 per Trading Permit for EEMs in Tier 2; and
- \$550 per Trading Permit for EEMs in Tier 3.

For EEMs that connect via the MEO Interface, the Exchange proposes to assess the following monthly Trading Permit fees:

- \$375 per Trading Permit for EEMs in Tier 1;
- \$500 per Trading Permit for EEMs in Tier 2; and
- \$625 per Trading Permit for EEMs in Tier 3.

The Exchange also proposes to assess EEM Clearing Firms \$300 per month per Trading Permit.

Market Makers

The Exchange notes that Trading Permit fees for Market Makers have not been amended since September 2022.²² Currently, the Exchange assesses monthly Trading Permit fees to Market Makers based on the lesser of either the

per class traded or percentage of total national average daily volume (“ADV”) measurement based on classes traded by volume. The amount of monthly Market Maker Trading Permit fee is based upon the number of classes in which the Market Maker was registered to quote on any given day within the calendar month, or upon the class volume percentages. A Market Maker is determined to be registered in a class if that Market Maker has been registered in one or more series in that class.²³ Newly listed option classes are excluded from the calculation of the monthly Market Maker Trading Permit fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national ADV.

Currently, the Exchange assesses the following Trading Permit fees to Market Makers:

- \$3,000 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$5,000 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$7,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and
- \$9,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAAX Pearl.

The Exchange also assesses an alternative lower Trading Permit fee to Market Makers who fall within the 2nd, 3rd and 4th levels of the Market Maker Trading Permit fee table, which levels are described immediately above, if certain volume thresholds are met. This alternative lower Trading Permit fee for Market Makers is set forth in footnote “***” that is included in the Market Maker Trading Permit fee table and provides that if the Market Maker’s total monthly executed volume during the relevant month is less than 0.040% of the total monthly TCV for MIAAX Pearl-listed option classes for that month, then the monthly fee will be \$3,500 instead of the fee otherwise applicable to such level.

The Exchange now proposes to increase the Trading Permit fees assessed to Market Makers, which, as described above, were last amended over three years ago in September 2022. In particular, the Exchange proposes to

²¹ The Exchange also provides a \$100 credit towards the monthly Trading Permit fees for EEMs that connect to the Exchange via both the FIX and MEO Interfaces. *See* Fee Schedule, Section 3(b), footnote “*”. The Exchange does not propose to amend this credit at this time.

²² *See* Securities Exchange Act Release No. 96338 (November 17, 2022), 87 FR 71704 (November 23, 2022) (SR-PEARL-2022-51).

²³ Pursuant to Exchange Rule 602(a), a Member that has qualified as a Market Maker may register to make markets in individual series of options.

assess the following Trading Permit fees to Market Makers:

- \$3,500 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$5,500 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$8,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and
- \$10,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAX Pearl.

The Exchange also proposes to increase the alternative lower Trading Permit fee to Market Makers who fall within the 3rd and 4th levels of the Market Maker Trading Permit fee table from \$3,500 to \$5,500 per month by amending the footnote “***” following the Market Maker Trading Permit fee table for these Monthly Trading Permit tier levels.

System Connectivity Fees

1Gb and 10Gb Network Connectivity Fees

Next, the Exchange proposes to amend the Fee Schedule to increase connectivity fees to the primary/secondary and disaster recovery facilities for Members and non-Members. Currently, the Exchange assesses the same amount of connectivity fees to Members and non-Members that connect to the Exchange’s primary/secondary facility and disaster recovery facility. In particular, the Exchange assesses the following connectivity fees to Members and non-Members:

- \$1,400 per 1 gigabit (“Gb”) connection to the primary/secondary facility;
- \$550 per 1Gb connection to the disaster recovery facility;
- \$2,750 per 10Gb connection to the disaster recovery facility; and
- \$13,500 per 10Gb ultra-low latency (“ULL”) connection to the primary/secondary facility.

The Exchange notes that the above fees for 1Gb connectivity and 10Gb to the disaster recovery facility, and 1Gb connectivity to the primary/secondary facilities, have not been increased since December 2019.²⁴ The fee for 10Gb ULL connectivity was last increased in January 2023.²⁵ The Exchange now

propose to amend Sections 5)a)-b) of the Fee Schedule to increase connectivity fees for Members and non-Members. In particular, the Exchange proposes to assess the following connectivity fees to Members and non-Members:

- \$1,500 per 1Gb connection to the primary/secondary facility;
- \$650 per 1Gb connection to the disaster recovery facility;
- \$3,500 per 10Gb connection to the disaster recovery facility; and
- \$15,000 per 10Gb ULL connection to the primary/secondary facility.

Port Fees

The Exchange proposes to amend the fees for FIX Ports, Full Service MEO Ports (Single), Full Service MEO Ports (Bulk), Limited Service MEO Ports, MEO Purge Ports, CTD Ports, and FXD Ports. Some of these fees have not been increased since they were first adopted in March or August of 2018. Each port provides access to the Exchange’s primary and secondary data centers as well as its disaster recovery center for a single fee.

FIX Ports

The Exchange proposes to amend the fees for FIX Ports, which have not been increased since they were first adopted in March 2018. A FIX Port allows Members to send orders and other messages using the FIX protocol.²⁶ The Exchange currently assesses the following monthly FIX Port fees:

- \$275 for the first FIX Port;
- \$175 per port for the second to fifth FIX Ports; and
- \$75 per port for the sixth or more FIX Ports.²⁷

The Exchange proposes to increase monthly FIX Port fees as follows:

- \$350 for the first FIX Port;
- \$225 per port for the second to fifth FIX Ports; and
- \$100 per port for the sixth or more FIX Ports.

Full Service MEO Ports (Single)

The Exchange proposes to amend the fees for Full Service MEO Ports (Single).²⁸ In general, a Full Service MEO Port allows Members to enter orders via the MEO Interface, which is

2023) (SR-PEARL–2022–62) and 99823 (March 21, 2024), 89 FR 21312 (March 27, 2024) (SR-PEARL–2024–14) (noting that while the proposed fee changes subject to this filing were immediately effective, the proposed fee changes had been effective since January 1, 2023 pursuant to the Exchange’s initially filed proposal on December 30, 2022 (*i.e.*, SR-PEARL–2022–62)).

²⁶ See *supra* note 9.

²⁷ Each FIX Port provides access to all matching engines. See Fee Schedule, Section 5)d), note “^”.

²⁸ These fees were last amended in January 2023. See *supra* note 25.

a binary order interface for certain order types. A Full Service MEO Port (Single) is a type of MEO port that supports all MEO input message types and binary order entry on a single order-by-order basis, but not bulk orders.²⁹ The Exchange proposes to increase the monthly fee of \$4,000 per Full Service MEO Port (Single) to \$4,500.³⁰

Full Service MEO Ports (Bulk)

The Exchange proposes to amend the Full Service MEO Port (Bulk) fees for EEMs and Market Makers,³¹ which support all MEO input message types and bulk binary order entry.

The Exchange assesses the amount of the monthly Full Service MEO Port (Bulk) fees for Market Makers based on the lesser of either the per class traded or percentage of total national ADV measurement based on classes traded by volume. The amount of monthly Market Maker Full Service MEO Port (Bulk) fees is based upon the number of classes in which the Market Maker was registered to quote on any given day within the calendar month, or upon the class volume percentages. Specifically, the Exchange assesses the following Full Service MEO Port (Bulk) fees to Market Makers:

- \$5,000 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$7,500 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$10,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and
- \$12,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAX Pearl.

The Exchange also provides an alternative lower Full Service MEO Port (Bulk) fee for Market Makers who fall within the 2nd, 3rd and 4th levels of the Market Maker Full Service MEO Port (Bulk) fee table, which levels are described directly above, if certain volume thresholds are met. This alternative lower Full Service MEO Port (Bulk) fee for Market Makers is set forth in footnote “***” in the Market Maker Full Service MEO Port (Bulk) fee table and provides that if the Market Maker’s total monthly executed volume during

²⁹ See *supra* note 10.

³⁰ Each Full Service MEO Port—Single entitles a Member to two (2) such ports for each matching engine for a single port fee. See Fee Schedule, Section 5)d), note “*”.

³¹ These fees were last amended in January 2023. See *supra* note 25.

²⁴ See Securities Exchange Act Release No. 87876 (December 31, 2019), 85 FR 757 (January 7, 2020) (SR-PEARL–2019–36).

²⁵ See Securities Exchange Act Release Nos. 96632 (January 10, 2023), 88 FR 2707 (January 17,

the relevant month is less than 0.040% of the total monthly TCV for MIAAX Pearl—listed option classes for that month, then the fee will be \$6,000 instead of the fee otherwise applicable to such level.

The Exchange now proposes to increase the Full Service MEO Port (Bulk) fees assessed to Market Makers as follows:

- \$5,500 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$8,000 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$11,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and
- \$13,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAAX Pearl.

The Exchange also proposes to increase the alternative lower Full Service MEO Port (Bulk) fee for Market Makers who fall within the 3rd and 4th levels of the proposed Market Maker Full Service MEO Port (Bulk) fee table from \$6,000 to \$8,000 per month by amending footnote “*” following the Market Maker Full Service MEO Port (Bulk) fee table.

The Exchange also proposes to amend the Full Service MEO Port (Bulk) fee assessed to EEMs, which entitles EEMs to two (2) Full Service MEO Ports (Bulk) for each matching engine for the single monthly fee. The Exchange proposes to increase the fee accesses to EEMs that utilize Full Service MEO Ports (Bulk) from \$7,500 to \$8,000 per month.

Limited Service MEO Ports

The Exchange proposes to amend the fees for Limited Service MEO Ports. Limited Service MEO Ports support all MEO input message types, but do not support bulk order entry and support the use of Immediate-or-Cancel Orders (“IOC”)³² or Intermarket Sweep Orders (“ISO”)³³ only.³⁴ The Exchange currently assesses the following monthly Limited Service MEO Ports

fees, which were last amended in April 2021:³⁵

- \$0.00 for the first and second Limited Service MEO Ports;
- \$200 per port for the third and fourth Limited Service MEO Ports;
- \$300 per port for fifth and sixth Limited Service MEO Ports; and
- \$400 per port for the seventh or more Limited Service MEO Ports.³⁶

The Exchange proposes to increase the monthly Limited Service MEO Port fees as follows:

- \$0.00 for the first and second Limited Service MEO Ports;
- \$225 per port for the third and fourth Limited Service MEO Ports;
- \$350 per port for fifth and sixth Limited Service MEO Ports; and
- \$475 per port for the seventh or more Limited Service MEO Ports

MEO Purge Ports

The Exchange proposes to amend the fees for MEO Purge Ports, which provide Members with the ability to send quote purge messages to the MIAAX Pearl System. MEO Purge Ports are not capable of sending or receiving any other type of messages or information.³⁷ The Exchange proposes to increase the monthly MEO Purge Port fee from \$600 per matching engine to \$700 per matching engine.³⁸

CTD Ports

The Exchange proposes to amend the fees for CTD Ports, which provide a Member with real-time clearing trade updates that include the Member’s clearing trade messages on a low latency, real-time basis. The trade messages include, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); and (v) Exchange MPID³⁹ for each side of the transaction,

including Clearing Member⁴⁰ MPID.⁴¹ Fees for CTD Ports have not been increased since they were first adopted in March 2018.⁴² The Exchange now proposes to increase the monthly fee per CTD Port from \$450 to \$575.⁴³

FXD Ports

The Exchange proposes to amend the fees for FXD Ports, which means a messaging interface that provides a copy of real-time trade execution, trade correction and trade cancellation information to FIX Drop Copy Port users who subscribe to the service. FXD Port users are those users who are designated by an EEM to receive the information and the information is restricted for use by the EEM only.⁴⁴ Fees for FXD Ports have not been increased since they were first adopted in March 2018.⁴⁵ The Exchange now proposes to increase the monthly fee per FXD Port from \$250 to \$325.⁴⁶

Cleanup Change

The Exchange proposes to make a minor, non-substantive cleanup edit to footnote “*” following the table of port fees in Section 5(d) of the Fee Schedule. Currently, footnote “*” below the table of port fees in Section 5(d) of the Fee Schedule provides as follows:

The rates set forth above (and below) for Full Service MEO Ports, both Bulk and/or Single, entitle a Member to two (2) such Ports for each Matching Engine for a single port fee. If a Member selects at least one Full Service MEO Port—Bulk as part of their two (2) Ports, *i.e.*, option (c) described below, the rates applicable to Full Service MEO Port—Bulk set forth above apply.

The Exchange now proposes to replace the word “above” in the last sentence of footnote “*” with the word “below” to accurately describe the reference location to Full Service MEO Ports (Bulk). The fees for Full Service MEO Ports (Bulk) are described below that footnote,⁴⁷ not above; accordingly, the Exchange proposes to amend footnote “*” to accurately reflect where

⁴⁰ The term “Clearing Member” means a Member that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the Rules of the Clearing Corporation. *See* Exchange Rule 100.

⁴¹ *See supra* note 12.

⁴² *See supra* note 16.

⁴³ Each CTD Port provides access to all matching engines. *See* Fee Schedule, Section 5(d), note “^”.

⁴⁴ *See supra* note 13.

⁴⁵ *See supra* note 16.

⁴⁶ Each FXD Port provides access to all matching engines. *See* Fee Schedule, Section 5(d), note “^”.

⁴⁷ *See* Securities Exchange Act Release No. 99823 (March 21, 2024), 89 FR 21312 (March 27, 2024) (SR-PEARL-2024-14) (amending the fees for, among other things, Full Service MEO Ports (Bulk) and moving such fees to a lower location in the Fee Schedule).

³² *See* Exchange Rule 516(e) for a description of IOC orders.

³³ *See* Exchange Rule 516(f) for a description of ISOs.

³⁴ *See* MIAAX Pearl Options User Manual, Version 1.13, Section 5.01 (revision date September 2, 2025), available at https://www.miaaxglobal.com/miax_pearl_user_manual.pdf (last visited October 17, 2025).

³⁵ *See* Securities Exchange Act Release No. 91858 (May 12, 2021), 86 FR 26967 (May 18, 2021) (SR-PEARL-2021-23).

³⁶ Each Limited Service MEO Port fee entitles a Member to one (1) such port for each matching engine. For example, the purchase of 4 Limited Service MEO Ports will allow the Member to access 4 ports per matching engine. *See* Fee Schedule, Section 5(d), note “***”.

³⁷ *See supra* note 11.

³⁸ Members may request and be allocated two (2) MEO Purge Ports for each matching engine to which it connects and will be charged the monthly fee per matching engine. *See* Fee Schedule, Section 5(d), note “***”.

³⁹ The term “MPID” means unique market participant identifier. *See* Exchange Rule 100.

such fees are located in the Fee Schedule.

Implementation

The Exchange issued an alert publicly announcing the proposed fees on October 14, 2025 and a reminder alert on December 19, 2025.⁴⁸ The fees subject to this proposal are immediately effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)⁴⁹ of the Act in general, and furthers the objectives of Section 6(b)(4)⁵⁰ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges

among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5)⁵¹ of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Fees Are Reasonable and Comparable to the Fees Charged by Other Exchanges for Similar Products and Services

Overall. The proposed fees are comparable to those of other options exchanges. The Exchange compared the fees proposed herein to the fees charged by other options exchanges for similar products or services. A more detailed discussion of the comparison follows.⁵²

EEM and EEM Clearing Firm Trading Permit Fees

The proposed Trading Permit fees for EEMs and EEM Clearing Firms are comparable to, or lower than, the trading permit fees charged by Cboe Exchange, Inc. (“Cboe”), as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX Pearl Options	EEM Trading Permit—connects via FIX Interface	Tier 1: \$300. Tier 2: \$425. Tier 3: \$550.
	EEM Trading Permit—connects via MEO Interface	Tier 1: \$375. Tier 2: \$500. Tier 3: \$625.
	EEM Clearing Firm Trading Permit	\$300.
Cboe ^a	Electronic Access Permit	\$3,000.

^a See Cboe Fee Schedule, Electronic Trading Permit Fees section, page 6, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf.

Cboe. Cboe charges higher trading permit fees than the Trading Permit fees proposed by the Exchange for EEMs and EEM Clearing Firms. Cboe’s Electronic Access Permit is analogous to the Exchange’s Trading Permits for EEMs and EEM Clearing Firms. In general, a Trading Permit is a permit issued by the Exchange that confers the ability to transact on the Exchange.⁵³ EEMs are assessed the monthly Trading Permit fee in order to transact on the Exchange on behalf of their customers or to conduct proprietary trading. EEM Clearing Firms are assessed the monthly Trading Permit

fee in order to clear transactions conducted on the Exchange. Likewise, Cboe’s Electronic Access Permits entitle the holder to access Cboe.⁵⁴ Like Trading Permit holders on the Exchange, Electronic Access Permit holders must be broker-dealers registered with Cboe and are allowed to transact on Cboe.⁵⁵ Cboe charges a higher trading permit fee than the Trading Permit fees proposed by the Exchange. Cboe charges a flat \$3,000 per Electronic Access Permit per month, while the Exchange provides tiered Trading Permit fees based on (1) the

type of interface the EEM uses to connect to the Exchange and (2) certain monthly volume thresholds. Notably, the highest Trading Permit fee the Exchange proposes to assess to an EEM is \$625 per Trading Permit per month, lower than Cboe’s flat \$3,000 monthly fee.

Market Maker Trading Permit Fees

The proposed Trading Permit fees for Market Makers are lower than the Trading Permit fees charged by NYSE American LLC (“NYSE American”), as summarized in the table below.

Exchange	Type of product/service	Monthly fee		
MIAX Pearl Options	Market Maker Trading Permit.	\$3,500	Up to 10 Classes	Up to 20% of Classes by volume (as a % of national ADV).
		5,500	Up to 40 Classes	Up to 35% of Classes by volume (as a % of national ADV).

⁴⁸ See Fee Change Alert, MIAX Options, Pearl Options and Emerald Options—January 1, 2026 Non-Transaction Fee Changes (dated October 14, 2025), available at <https://www.miaxglobal.com/alert/2025/10/14/miax-options-pearl-options-and-emerald-options-exchanges-january-1-2026-non-1?nav=all> and Fee Change Alert, MIAX Options, Pearl Options and Emerald Options Exchanges—Reminder: January 1, 2026 Non-Transaction Fee Changes (dated December 19, 2025), available at <https://www.miaxglobal.com/alert/2025/12/19/miax-options-pearl-options-and-emerald-options-exchanges-reminder-january-1-1?nav=all>.

⁴⁹ 15 U.S.C. 78f.

⁵⁰ 15 U.S.C. 78f(b)(4).

⁵¹ 15 U.S.C. 78f(b)(5).

⁵² The fee amounts listed in each table provided in the Statutory Basis section of this filing that pertain to the Exchange are the proposed new rates for each product or service.

⁵³ See the Definitions section of the Fee Schedule.

⁵⁴ See Cboe Fee Schedule, Electronic Trading Permit Fees section, page 6, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf. The Exchange notes that Cboe differentiates between electronic access permits for

clearing firms and electronic exchange member firms and charges a trading permit fee of \$2,000 per month for Clearing TPH Permits, which is the same rate for a Trading Permit as proposed by the Exchange for EEMs that act as Clearing Members. See *id.* The term “Clearing Member” means a Member that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the rules of the Clearing Corporation. See Exchange Rule 100. The term “Clearing Corporation” means The Options Clearing Corporation (“OCC”). *Id.*

⁵⁵ See *id.*

Exchange				
		8,000	Up to 100 Classes	Up to 50% of Classes by volume (as a % of national ADV).
		10,000	Over 100 Classes	Over 50% of Classes by volume up to all Classes on MIAx Pearl Options (as a % of national ADV).
NYSE American ^a	Options Market Maker ATPs.	\$8,000 6,000 5,000 4,000 3,000 2,000 500	1st ATP: 60 issues plus bottom 45%. 2nd ATP: 150 issues plus bottom 45%. 3rd ATP: 500 issues plus bottom 45%. 4th ATP: 1,100 issues plus bottom 45%. 5th ATP: all issues traded. 6th to 9th ATP: all issues traded. 10th or more ATPs: all issues traded.	

^a See NYSE American Options Fee Schedule, Section III.A., available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

NYSE American. NYSE American charges higher trading permit fees for its market makers as the Trading Permit fees proposed by the Exchange for its Market Makers. In general, a Trading Permit is a permit issued by the Exchange that confers the ability to transact on the Exchange.⁵⁶ Each registered Market Maker is assessed a monthly Trading Permit fee in order to appoint a qualified person (or persons) to act as a Market Maker Authorized Trader (“MMAT”)⁵⁷ pursuant to the Exchange’s Rules and fulfill the Market Maker’s obligations to act as a specialist on the Exchange.⁵⁸ The Exchange assesses Trading Permit fees based on the lesser of either the per class basis or percentage of total national average daily volume measurement. A “class” of options means all option contracts covering the same underlying security.⁵⁹ NYSE American’s market maker ATP⁶⁰ fee is analogous to the Exchange’s Trading Permit fees for Market Makers, which is a monthly fee in order to transact on NYSE American for the purpose of making markets in options contracts.⁶¹ NYSE American assesses its ATP fees based on the number of issues⁶² in their

appointment. The Exchange and NYSE American provide for different numbers of option classes included in each tier of their respective trading permit fee structures due to their own business and competitive reasons. The Exchange provides fewer options class assignments for each Trading Permit tier because it believes this structure best represents the Market Makers that trade on the Exchange. NYSE American, on the other hand, provides significantly more “issues” or options classes in each ATP tier in order to “properly [incentivize] Market Makers to quote in a broad range of options, including less liquid and active names”⁶³

NYSE American charges higher trading permit fees to its ATPs as proposed by the Exchange herein for the Exchange’s Market Makers. NYSE American charges all Options Market Makers⁶⁴ tiered trading permit fees based on the number of issues permitted in an Options Market Maker’s quoting assignment.⁶⁵ NYSE American provides tiered ATP fees ranging from \$8,000 to \$26,000 due to the cumulative nature of

option classes in [a NYSE Amex Options Market Maker’s] electronic trading appointment” and then using the term “issue” in the tiers of ATP fees).

⁶³ See *id.*

⁶⁴ A “Market Maker” refers to an ATP Holder that acts as a Market Maker pursuant to NYSE American Rule 920NY and is referred to as an “NYSE AMERICAN Options Market Maker” in the NYSE American Fee Schedule. See NYSE American Options Fee Schedule, Preface, available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁶⁵ NYSE American charges ATP fees based on the maximum number of ATPs held during the month. The “bottom 45%” refers to the least actively traded issues on NYSE American, ranked by industry volume, as reported by the OCC for each issue during the calendar quarter. See NYSE American Options Fee Schedule, Section III.A., available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

the fee,⁶⁶ which amount could be significantly higher if a market maker purchases six or more ATPs, while the Exchange provides tiered Trading Permit fees ranging from \$3,500 to \$10,000 (as proposed), based on the lesser of either the per class basis or percentage of total national ADV measurements. The Exchange offers even greater savings to Market Makers as it provides a reduced Trading Permit fee of \$5,500 (as proposed) for Market Makers if their total monthly executed volume during the relevant month is less than 0.040% of the total monthly TCV for MIAx-Pearl listed option classes for that month, which still allows these Market Makers to quote the entire market (or close to the entire market). NYSE American does not offer reduced fees for its Options Market Makers that only quote in certain classes compared to those that quote the entire market. NYSE American actually charges higher fees for Options Market Makers that transact in certain options classes, which fees add to the ATP fees described above.⁶⁷

Network Connectivity Fees (Disaster Recovery Facility)

The proposed network connectivity fees to the Exchange’s disaster recovery facility for Members and non-Members are lower than the connectivity fees charged by Cboe C2 Exchange, Inc. (“Cboe C2”), as summarized in the table below.

⁶⁶ This was calculated by adding the monthly fees for the first five ATPs that a market maker would be required to purchase in order to quote the entire NYSE American market (*i.e.*, \$8,000 + \$6,000 + \$5,000 + \$4,000 + \$3,000).

⁶⁷ See NYSE American Options Fee Schedule, Section III.D. Premium Product fees (assessing an additional monthly fee of \$1,000 per product to NYSE American Options Market Makers that transact in premium products, such as SPY, APPL, etc., capped at \$7,000 per month).

⁵⁶ See Exchange Rule 100.

⁵⁷ A Market Maker Authorized Trader is permitted to enter orders only for the account of the Market Maker for which they are registered. See Exchange Rules 601(a)–(b).

⁵⁸ See, generally, Chapter VI of the Exchange’s Rules.

⁵⁹ See Exchange Rule 100.

⁶⁰ An “ATP” or “ATP Holder” is a registered Broker-Dealer who is a permit holder on NYSE American, per NYSE American Rule 900.2NY(4),(5). See NYSE American Options Fee Schedule, Key Terms and Definitions section, available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁶¹ See, generally, NYSE American Rule 923NY.

⁶² An “issue” means an options class. See Securities Exchange Act Release No. 67764 (August 31, 2012), 77 FR 55254 (September 7, 2012) (SR–NYSEMKT–2012–44) (changing the calculation of trading permit fees to be based on the “number of

Exchange	Type of product/service	Monthly fee (per connection)
MIAX Pearl Options	1Gb Connectivity (disaster recovery)	\$650
	10Gb Connectivity (disaster recovery)	3,500
Cboe C2 ^a	Physical Port 1Gb (disaster recovery)	2,000
	Physical Port 10Gb (disaster recovery)	6,000

^a See Cboe C2 Fee Schedule, Physical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

Cboe C2. Cboe C2 charges higher 1Gb and 10Gb connectivity fees to connect to its disaster recovery facility than the Exchange proposes to connect to its disaster recovery facility. Cboe C2's connectivity fees to connect to its disaster recovery facility are analogous to the Exchange's connectivity fees to its disaster recovery facility. In general, the disaster recovery facility is a secondary data center in a separate, geographically diverse location that Exchange participants are able to connect to in order to have redundancy for their trading and market data connections in the event that the Exchange's primary

data center operations are disabled. Cboe C2's 1Gb and 10Gb connections to its disaster recovery center allow its members to connect to that data center in the event that Cboe C2's primary data center is no longer operational.⁶⁸

Cboe C2 charges higher 1Gb and 10Gb connectivity fees to its disaster recovery facility than the fees proposed by the Exchange herein for connectivity to the Exchange's disaster recovery facility. Cboe C2 charges monthly fees of \$2,000 per 1Gb connection and \$6,000 per 10Gb connection to its disaster recovery facility. Meanwhile, the Exchange proposes to charge monthly fees of \$650

per 1Gb connection and \$3,500 per 10Gb connection to its disaster recovery facility.

Network Connectivity Fees (Primary/Secondary Facility)

The proposed network connectivity fees to the Exchange's primary and secondary facility for Members and non-Members are lower than the connectivity fees charged by Nasdaq BX, Inc. ("Nasdaq BX") and NYSE American for connectivity to its primary data center, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per connection)
MIAX Pearl Options	1Gb Connectivity	\$1,500
	10Gb Connectivity	15,000
Nasdaq BX ^a	1Gb Connection	2,750
	10Gb Ultra Connection	18,500
NYSE American ^b	10Gb LX LCN Circuit	22,000

^a See Securities Exchange Act Release No. 104261 (November 25, 2025), 90 FR 55209 (December 1, 2025) (SR-BX-2025-027).

^b See NYSE American Connectivity Fee Schedule, page 12, available at https://www.nyse.com/publicdocs/nyse/Wireless_Connectivity_Fees_and_Charges.pdf.

The Exchange notes that Nasdaq BX and NYSE American operate on shared infrastructure with their affiliates. As such, one network connection to one exchange provides access to the affiliated exchanges on their shared network. Meanwhile, the Exchange operates on a dedicated 10Gb ULL network that is not shared with its affiliates and therefore, each 10Gb ULL connection only provides connectivity to a single exchange. In the Exchange's experience, however, market participants that wish to experience certain latency may elect to purchase multiple connections rather than using one 10Gb connection to access multiple markets or, in some cases, purchase a more expensive 40Gb line if available. In addition, those that purchase connections to receive market data need a dedicated connection to each exchange because they are unable to receive market data from multiple

markets over a single connection. Also, market participants may choose to not use the single connection to access other markets within an exchange family to avoid incurring other ancillary costs, such as membership, transaction, or other network fees.

Nasdaq BX. Nasdaq BX charges higher connectivity fees to its primary data center. Nasdaq BX's 1Gb and 10Gb Ultra fiber connection fees are analogous to the Exchange's 1Gb and 10Gb ULL connectivity fees. In general, the Exchange's 1Gb and 10Gb ULL connectivity fees provide Members and non-Members with access to the Exchange's primary and secondary facilities (*i.e.*, the live trading platforms and market data systems). Nasdaq BX's 1Gb and 10Gb Ultra fiber connections provide Nasdaq BX participants with the ability to connect directly to Nasdaq BX's trading platforms and market data feeds.⁶⁹

Nasdaq BX charges higher connectivity fees than the connectivity fees to the primary and secondary facilities proposed by the Exchange herein. Nasdaq BX charges all participants monthly fees of \$2,750 per 1Gb connection and \$18,500 per 10Gb connection to access its primary data center. Meanwhile, the Exchange proposes to charge Members and non-Members monthly fees of \$1,500 per 1Gb connection and \$15,000 per 10Gb ULL connection to the Exchange's primary and secondary facilities. Nasdaq BX charges an additional installation fee for each 1Gb or 10Gb connection of \$1,650.⁷⁰

NYSE American. NYSE American charges higher 10Gb connectivity fees to its primary data center. NYSE American's 10Gb LX LCN Circuit connection fee is analogous to the Exchange's 10Gb ULL connectivity fee. In general, the Exchange's 10Gb ULL connectivity fee provides Members and

⁶⁸ See Cboe BCP/DR Plan Highlights, v1.3, page 2, available at https://cdn.cboe.com/resources/membership/Cboe_Corporate_BCP-DR.pdf.

⁶⁹ See, generally, Nasdaq Market Connectivity Options web page, available at <https://www.nasdaq.com/solutions/nasdaq-co-location> (last visited March 22, 2026).

⁷⁰ See Nasdaq BX, General 8: Connectivity, Section 1(b), Connectivity to the Exchange, available at <https://listingcenter.nasdaq.com/rulebook/bx/rules/BX%20General%208>.

non-Members with access to the Exchange's primary and secondary facilities (*i.e.*, the live trading platforms and market data systems). NYSE American's 10Gb LX LCN Circuit connection provides NYSE American participants with the ability to connect directly to NYSE American trading platforms and market data feeds.⁷¹

NYSE American charges higher connectivity fees as proposed by the

Exchange herein. NYSE American charges all participants a monthly fee of \$22,000 per 10Gb LX LCN Circuit connection to access its primary data center. Meanwhile, the Exchange proposes to charge Members and non-Members a monthly fee of \$15,000 per 10Gb ULL connection to the Exchange's primary and secondary facilities. NYSE American charges an additional

installation fee for each 10Gb LX LCN Circuit connection of \$15,000.⁷²

FIX Port Fees

The proposed FIX Port fees are lower than the similar port fees charged by Cboe BZX Exchange, Inc. ("Cboe BZX", Cboe C2 and options trading facility of The Nasdaq Stock Market LLC ("Nasdaq")), as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Pearl Options	1st FIX Port	\$350
	2nd to 5th FIX Ports	225
	6th or more FIX Ports	100
Cboe BZX ^a	Logical Ports	750
Cboe C2 ^b	FIX Logical Ports	650
Nasdaq ^c	FIX Ports	650

^a See Cboe BZX Fee Schedule, Options Logical Port Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/.

^b See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

^c See Nasdaq Options 7 Pricing Schedule, Section 3(i)(1), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Cboe BZX. Cboe BZX charges higher Logical Port fees than the FIX Port fees proposed by the Exchange. Cboe BZX's Logical Ports are analogous to the Exchange's FIX Ports. In general, a FIX Port allows an Exchange Member to send simple and complex orders, as well as other messages, to the Exchange using the FIX protocol.⁷³ Cboe BZX's Logical Ports allow for order entry and other messages to be sent to Cboe BZX by participants.⁷⁴ Cboe BZX charges higher Logical Port fees than the FIX Port fees proposed by the Exchange herein. Cboe BZX charges a monthly fee of \$750 per Logical

entry and other messages to be sent to Cboe C2 by participants.⁷⁶

Cboe C2 charges higher FIX Logical Port fees than the FIX Port fees proposed by the Exchange herein. Cboe C2 charges a monthly fee of \$650 per FIX Logical Port, while the Exchange's highest proposed tier is only \$350 per FIX Port per month, with the Exchange's fees for subsequent FIX Ports decreasing to \$225 per port (FIX Ports 2–5) and then \$100 per port (FIX Ports greater than 5). Cboe C2 FIX Logical Port users may incur an additional monthly fee of \$650 per port. Cboe C2 provides that for the standard monthly fee of \$650 per FIX Logical Port, a user may enter up to 70,000 orders per trading day per port as measured on average in a single month. However, each incremental usage of up to 70,000 per day per FIX Logical Port will incur an additional \$650 fee per month.⁷⁷

Nasdaq. Nasdaq charges higher FIX Port fees than the FIX Port fees proposed by the Exchange. Nasdaq's FIX

Ports are analogous to the Exchange's FIX Ports in that they allow Nasdaq participants to connect, send, and receive messages related to orders to and from Nasdaq, which include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications.⁷⁸ Nasdaq charges participants \$650 per FIX Port per month, while the Exchange's highest proposed tier is only \$350 per FIX Port per month, with the Exchange's fees for subsequent FIX Ports decreasing to \$225 per port (FIX Ports 2–5) and then \$100 per port (FIX Ports greater than 5). Nasdaq charges higher FIX Port fees than the FIX Port fees proposed by the Exchange herein.

Limited Service MEO Port Fees

The proposed Limited Service MEO Port ("LSPs") fees are lower than the similar port fees charged by Nasdaq and Nasdaq MRX, LLC ("Nasdaq MRX"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Pearl Options	1st to 2nd LSP	\$0.00
	3rd to 4th LSP	225
	5th to 6th LSP	350

⁷¹ See, generally, NYSE American Connectivity Fee Schedule, available at https://www.nyse.com/publicdocs/nyse/Wireless_Connectivity_Fees_and_Charges.pdf.

⁷² See *id.*

⁷³ See the Definitions section of the Fee Schedule.

⁷⁴ See, generally, Cboe Titanium U.S. Options FIX Specification, Version 2.7.97 (dated October 20,

2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁷⁵ See the Definitions section of the Fee Schedule.

⁷⁶ See, generally, Cboe Titanium U.S. Options FIX Specification, Version 2.7.97 (dated October 20, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁷⁷ See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at <https://>

www.cboe.com/us/options/membership/fee_schedule/ctwo/. Incremental usage is determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed FIX Ports. See *id.*

⁷⁸ See Nasdaq Options 3 Options Trading Rules, Section 7(e)(1)(A).

Exchange	Type of product/service	Monthly fee (per port)
Nasdaq ^a	7 or more LSPs	475
Nasdaq MRX ^b	QUO Ports	750
	OTTO Ports	650

^a See Nasdaq, Options 7: Pricing Schedule, Section 3(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

^b See Nasdaq MRX, Options 7: Pricing Schedule, Section 6(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/mrx/rules/MRX%20Options%207>.

Nasdaq. Nasdaq charges higher Quote Using Order (“QUO”) Port fees than the Limited Service MEO Port fees proposed by the Exchange. The Exchange acknowledges differences between the functionality of its LSPs and that of Nasdaq’s QUO Ports; however, the Exchange believes that the fee comparison between LSPs and QUO Ports is relevant as both ports provide a limited subset of functionality as provided by other ports offered by both the Exchange and Nasdaq. In general, Limited Service MEO Ports support all MEO Interface⁷⁹ input message types⁸⁰ and the entry of orders marked IOC⁸¹ and ISO,⁸² but do not support bulk order entry.⁸³ Notifications sent over LSPs between market participants and the Exchange may include the following information: (1) execution notifications, cancel notifications, order notifications, and Done for Day notifications; (2) administrative messages (*i.e.*, series updates); (3) risk protection settings and notification updates; and (4) trading status notifications (*i.e.*, halted).⁸⁴ Nasdaq’s QUO Ports allow Nasdaq market makers to connect, send, and receive messages related to single-sided orders to and from Nasdaq.⁸⁵ Messages sent over QUO Ports may include the

following: (1) options symbol directory messages (*e.g.*, underlying); (2) system event messages (*e.g.*, start of trading hours messages and start of opening); (3) trading action messages (*e.g.*, halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications.⁸⁶

Nasdaq charges a monthly fee of \$750 per QUO Port, per account number, while the Exchange provides the first two LSPs for free and the Exchange’s highest proposed tier is \$475 per LSP per month. Nasdaq charges higher QUO Port fees than the LSP fees proposed by the Exchange herein.

Nasdaq MRX. Nasdaq charges higher Ouch to Trade Options (“OTTO”) Port fees than the Limited Service MEO Port fees proposed by the Exchange. The Exchange acknowledges differences between the functionality of its LSPs and that of Nasdaq MRX’s OTTO Ports; however, the Exchange believes that the fee comparison between LSPs and OTTO Ports is relevant as both ports provide a limited subset of functionality as provided by other ports offered by both the Exchange and Nasdaq MRX. Nasdaq MRX’s OTTO Ports allow Nasdaq MRX members to connect, send, and receive messages related to orders, auction orders, and auction responses to

Nasdaq MRX.⁸⁷ Messages sent over OTTO Ports include the following: (1) options symbol directory messages (*e.g.*, underlying and complex instruments); (2) system event messages (*e.g.*, start of trading hours messages and start of opening); (3) trading action messages (*e.g.*, halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages.⁸⁸

Nasdaq MRX charges a monthly fee of \$650 per OTTO Port, per account number (with fees for all OTTO Ports, CTI Ports, FIX Ports, FIX Drop Ports and disaster recovery ports subject to a monthly cap of \$7,500), while the Exchange provides the first two LSPs for free and the Exchange’s highest proposed tier is \$475 per LSP per month. Nasdaq MRX charges higher OTTO Port fees than the LSP fees proposed by the Exchange herein.

MEO Purge Port Fees

The proposed MEO Purge Port fees are comparable to, or lower than, the similar port fees charged by Nasdaq MRX, Cboe C2 and Nasdaq, as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX Pearl Options	MEO Purge Ports	\$700 per matching engine.
Nasdaq MRX ^a	First 5 SQF Purge Ports	\$1,620 per port.
	Next 15 SQF Purge Ports	\$1,080 per port.
	All SQF Purge Ports over 20	\$540 per port.
Cboe C2 ^b	Purge Ports	\$850 per port.
Nasdaq ^c	First 5 SQF Purge Ports	\$1,620 per port.
	Next 15 SQF Purge Ports	\$1,080 per port.
	All SQF Purge Ports over 20	\$540 per port.

^a See Securities Exchange Act Release No. 104005 (September 18, 2025), 90 FR 45855 (September 23, 2025) (SR-MRX-2025-20) (new fees effective January 1, 2026).

⁷⁹ “MEO Interface” or “MEO” means a binary order interface for certain order types as set forth in Rule 516 into the MIAX Pearl System. See the Definitions section of the Fee Schedule.

⁸⁰ See MIAX Pearl Options MEO Interface Specification, Version 2.2a (revision date July 25, 2025), available at https://www.miaxglobal.com/miax_express_orders_meo_v2.2a.pdf (providing full description of messages supported by the MEO Interface).

⁸¹ See Exchange Rule 516(e) for a description of IOC orders.

⁸² See Exchange Rule 516(f) for a description of ISOs.

⁸³ See MIAX Pearl Options Exchange User Manual, Version 1.13, Section 5.01 (revision date September 2, 2025), available at https://www.miaxglobal.com/miax_pearl_user_manual.pdf.

⁸⁴ See MIAX Pearl Options MEO Interface Specification, Version 2.2a (revision date July 25, 2025), available at https://www.miaxglobal.com/miax_express_orders_meo_v2.2a.pdf (providing full

description of messages supported by the MEO Interface).

⁸⁵ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

⁸⁶ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

⁸⁷ See Nasdaq MRX, Options 3: Options Trading Rules, Supplementary Material to Options 3, Section 7, .03(b).

⁸⁸ See Nasdaq MRX, Options 3: Options Trading Rules, Supplementary Material to Options 3, Section 7, .03(b).

^b See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

^c See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect. However, in a practical sense, the Exchange can surmise that a market participant would require multiple purge ports to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's trading behavior requires. The Exchange does not know the actual number of purge ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchange's entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

Nasdaq MRX. Nasdaq MRX charges higher Specialized Quote Feed ("SQF") Purge Port fees than the MEO Purge Port fees proposed by the Exchange. Nasdaq MRX's SQF Purge Ports are analogous to the Exchange's MEO Purge Ports. In general, MEO Purge Ports provide Members with the ability to send quote purge messages to the Exchange, but are not capable of sending or receiving any other type of messages or information.⁸⁹ Nasdaq MRX's SQF Purge Ports allow Nasdaq MRX market makers to send purge requests to the Nasdaq MRX trading system.⁹⁰

Nasdaq MRX charges higher SQF Purge Port fees than the MEO Purge Port

fees proposed by the Exchange herein. Nasdaq MRX will charge (beginning January 1, 2026) SQF Purge Port fees as follows: (a) \$1,620 per SQF Purge Port per month for the first 5 ports; (b) \$1,080 per SQF Purge Port per month for the next 15 ports; and (c) \$540 per SQF Purge Port for all ports over 20 ports. The Exchange proposes to charge \$700 per MEO Purge Port per matching engine per month. The Exchange chose to charge Purge ports on a per matching engine basis instead of a per port basis due to its System architecture, which provides two (2) MEO Purge Ports per matching engine for redundancy purposes. Members are able to select the matching engines that they want to connect to based on the business needs of each Market Maker, and pay the applicable fee based on the number of matching engines and pair of ports utilized.⁹¹ This architecture provides Members with flexibility to control their MEO Purge Port costs based on the number of matching engines each Market Maker elects to connect to based on each Market Maker's business needs. Further, the Exchange's monthly MEO Purge Port fee provides access to the Exchange's primary, secondary, and disaster recovery data centers for the single monthly fee. Nasdaq MRX, on the other hand, assesses an additional fee \$50 per SQF Purge Port per month, per account number, to access its disaster recovery facility (albeit, Nasdaq MRX currently waives the fee for one SQF Purge Port to the disaster recovery facility per market maker per month).

Cboe C2. Cboe C2 charges higher Purge Port fees than the MEO Purge Port

fees proposed by the Exchange. Cboe C2's Purge Ports are analogous to the Exchange's MEO Purge Ports. In general, Cboe C2's Purge Ports allow its members the ability to cancel a subset (or all) of open orders across the executing firm's ID, underlying symbol(s), or custom group ID, across multiple logical ports/sessions.⁹² Cboe C2 charges \$850 per Purge Port per month, while the Exchange proposes to charge \$700 per pair of MEO Purge Ports per matching engine per month. Cboe C2 charges higher Purge Port fees than the MEO Purge Port fees proposed by the Exchange herein.

Nasdaq. Nasdaq charges higher SQF Purge Port fees than the MEO Purge Port fees proposed by the Exchange. Nasdaq's SQF Purge Ports are analogous to the Exchange's MEO Purge Ports, which allow Nasdaq market makers to send purge requests to the Nasdaq trading system.⁹³ Nasdaq charges higher Purge Port fees than the MEO Purge Port fees proposed by the Exchange herein. Nasdaq charges tiered SQF Purge Port fees as follows: (a) \$1,620 per SQF Purge Port per month for the first 5 ports; (b) \$1,080 per SQF Purge Port per month for the next 15 ports; and (c) \$540 per SQF Purge Port for all ports over 20 ports. The Exchange proposes to charge a flat \$700 per set of MEO Purge Ports per matching engine per month.

CTD Port Fees

The proposed CTD Port fees are lower than the similar port fees charged by Nasdaq, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Pearl Options	CTD Ports	\$575
Nasdaq ^a	CTI Ports	650

^a See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Nasdaq. Nasdaq charges higher Clearing Trade Interface ("CTI") Port fees than the CTD Port fees proposed by the Exchange. Nasdaq's CTI Ports are analogous to the Exchange's CTD Ports.

In general, CTD Ports provide an Exchange Member with real-time clearing trade updates, including, among other things, the following: (i) trade date and time; (ii) symbol

information; (iii) trade price/size information; (iv) Member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); and (v) Exchange MPID

⁸⁹ See the Definitions section of the Fee Schedule.

⁹⁰ See Nasdaq MRX Options 3: Trading Rules, Supplementary Material to Options 3, Section 7, .03(c).

⁹¹ The Exchange notes that each matching engine corresponds to a specified group of symbols.

Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

⁹² See Cboe Purge Ports, Frequently Asked Questions, U.S. Options, Version 1.3, available at https://cdn.cboe.com/resources/features/Cboe_

USO_PurgePortsFAQs.pdf (last visited November 5, 2025).

⁹³ See Nasdaq Options 3: Trading Rules, Section 7(e)(1)(B).

for each side of the transaction, including Clearing Member MPID.⁹⁴ Nasdaq's CTI Ports provide real-time clearing trade updates regarding trade details specific to the Nasdaq participant, which include, among other things, the following: (i) The Clearing Member Trade Agreement or "CMTA" or The Options Clearing Corporation or

"OCC" number; (ii) Nasdaq badge or house number; (iii) Nasdaq internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity.⁹⁵

Nasdaq charges \$650 per CTI Port per month, while the Exchange proposes to charge \$575 per CTD Port per month.

Nasdaq charges higher CTI Port fees than the CTD Port fees proposed by the Exchange herein.

FXD Port Fees

The proposed FXD Port fees are lower than the similar port fees charged by Cboe C2 and Nasdaq BX, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX Pearl Options	FXD Ports	\$325
Cboe C2 ^a	Drop Logical Ports	650
Nasdaq ^b	FIX Drop Ports	650

^a See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

^b See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Cboe C2. Cboe C2 charges higher logical Drop Port fees than the FXD Port fees proposed by the Exchange. Cboe C2's Drop Logical Ports are analogous to the Exchange's FXD Ports. In general, FXD Ports allow the Exchange's market participants to connect their systems with a messaging interface that provides a copy of real-time trade execution, trade correction and trade cancellation information.⁹⁶ Cboe C2's Drop Logical Ports allow its members to receive real-time information about order flow, including execution information (*i.e.*, filled or partially filled) and cancellation information.⁹⁷ Like the Exchange's FXD Ports, Cboe C2's Drop Logical Ports do not allow the user to submit orders to the exchange. Cboe C2

charges \$650 per Drop Logical Port per month, while the Exchange proposes to charge \$325 per FXD Port per month. Cboe C2 charges higher Drop Logical Port fees as the FXD Port fees proposed by the Exchange herein.

Nasdaq. Nasdaq charges higher FIX Drop Port fees than the FXD Port fees proposed by the Exchange. Nasdaq's FIX Drop Ports are analogous to the Exchange's FXD Ports in that they provide a real-time order and execution update message that is sent to a Nasdaq participant after an order has been received or modified or an execution has occurred and contains trade details specific to that participant.⁹⁸ The information provided through the Nasdaq FIX Drop Port includes, among

other things, the following: (i) executions; (ii) cancellations; (iii) modifications to an existing order and (iv) busts or post-trade corrections.⁹⁹ Nasdaq charges \$650 per FIX Drop Port per month, while the Exchange proposes to charge \$325 per FXD Port per month. Nasdaq charges higher FIX Drop Port fees than the FXD Port fees proposed by the Exchange herein.

Full Service MEO Port (Single) Fees

On a per port basis, the proposed fee for Full Service MEO Ports (Single) is similar to the per port fee charged by Nasdaq and Cboe BZX Exchange, Inc. ("Cboe BZX") for their similar port types, as summarized in the table below.

Exchange	Type of product/service	Monthly fee	Effective fee per port
MIAX Pearl Options	Full Service MEO Port (Single)	\$4,500	\$187.50
Nasdaq ^a	QUO Port	750	750
Cboe BZX ^a	BOE Unitized Logical Port	350	350

^a See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

^b See Cboe BZX Fee Schedule, Options Logical Port Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect. However, in a practical sense, the Exchange can surmise that a market participant would require multiple ports

to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's quoting behavior requires. The Exchange does not know the actual number of ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of ports

a firm would need to connect to another exchange's entire market and quote that entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' port fees as listed in their fee schedules.

The Exchange acknowledges that, without additional contextual or competitive information regarding the architecture of other exchanges, as

⁹⁴ See the Definitions section of the Fee Schedule.

⁹⁵ See Nasdaq Options 3: Trading Rules, Section 23(b)(1).

⁹⁶ See the Definitions section of the Fee Schedule.

⁹⁷ See Cboe Titanium U.S. Options FIX Specification, Version 2.7.97, FIX Drop section (dated October 20, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁹⁸ See Nasdaq Options 3: Trading Rules, Section 23(b)(3).

⁹⁹ *Id.*

described above, it may appear that the Exchange's proposed fee for Full Service MEO Ports (Single) is higher than other exchanges when in fact, that may not be the case. The Exchange provides each Member or non-Member access to two ports on all twelve matching engines for a single monthly fee and a vast majority of participants choose to connect to all twelve matching engines and utilize both ports for a total of 24 ports. Other exchanges charge on a per port basis and require firms to connect to multiple matching engines, thereby multiplying the cost to access their full market.¹⁰⁰ On the Exchange, this is not the case. The Exchange provides each Member or non-Member access, but does not require they connect to, all twelve matching engines for the single monthly fee for Full Service MEO Ports (Single).

Nasdaq. Nasdaq offers several different types of ports and fee structures. In particular, Nasdaq offers a QUO Port. The Exchange believes that the QUO provides similar functionality as the Exchange's Full Service MEO Ports (Single). As described above, a Full Service MEO Port (Single) supports all MEO input message types and binary order entry on a single order-by-order basis, but not bulk orders.¹⁰¹ For bulk binary order entry, the Exchange offers Full Service MEO Ports (Bulk).¹⁰² Full Service MEO Ports (Single) entitle a Member to two such ports for each matching engine for a single monthly port fee.¹⁰³ Similarly, Nasdaq's QUO Ports allow Nasdaq market makers to connect, send, and receive messages related to single-sided orders to and from Nasdaq,¹⁰⁴ but does not offer bulk quoting capabilities, which Nasdaq provides using SQF Ports. Further, just like the Exchange's Full Service MEO Ports (Single), orders submitted by

Nasdaq market makers over the QUO Port interface are treated as quotes.¹⁰⁵

For purposes of this comparison, Nasdaq charges a fee of \$750 per QUO Port per month. Although Nasdaq's technical specifications for QUO Ports describes that the infrastructure may consist of multiple matching engines and that each firm may need to connect to each matching engine, the Exchange is unable to determine the range or amount of QUO Ports a market maker would need to purchase in order to quote the entire Nasdaq market.¹⁰⁶ Based on publicly available information, the Exchange believes that a Nasdaq market maker would likely need to purchase multiple QUO Ports to access the full Nasdaq options market.

The Exchange proposes to charge a flat fee of \$4,500 per Full Service MEO Port (Single) set, which provides Members with access to all matching engines. Breaking this down at the individual port level and cost per port, the Exchange assesses an effective per port fee of \$187.50. This is calculated by dividing the flat monthly fee for the set of Full Service MEO Ports (Single) (*i.e.*, \$4,500) by the total number of ports that a Member receives for that monthly fee, which is 24 (twelve matching engines multiplied by two Full Service MEO Ports (Single) per matching engine). When compared to the Nasdaq per port fee for the similar type of port—QUO Port—the Exchange's effective per port fee is lower than the monthly per port fee assessed by Nasdaq of \$750. Further, a Nasdaq market maker would only receive six QUO Ports for the same fee (\$4,500) proposed by the Exchange for its Full Service MEO Ports (Single), which allows an Exchange Market Maker to receive twenty-four such ports. This is calculated by dividing the Exchange's proposed monthly fee for its set of Full Service MEO Ports (Single), which is \$4,500, by the Nasdaq per port cost for a QUO Port of \$750. Accordingly, the Exchange believes its proposed Full Service MEO Port (Single) fees are reasonable when

compared to the fee charged by Nasdaq for its QUO Port on a per port basis.

Cboe BZX. Cboe BZX offers several different types of ports and fee structures. In particular, Cboe BZX offers a BOE Unitized Logical Port. The Exchange believes that the BOE Unitized Logical Port is analogous or similar to the Exchange's Full Service MEO Ports (Single). In general, a Full Service MEO Port (Single) supports all MEO input message types and binary order entry on a single order-by-order basis, but not bulk orders.¹⁰⁷ For bulk binary order entry, the Exchange offers Full Service MEO Ports (Bulk).¹⁰⁸ Full Service MEO Ports (Single) entitle a Member to two such ports for each matching engine for a single monthly port fee.¹⁰⁹ Similarly, BOE Unitized Logical Ports allow Cboe BZX members to submit orders and quotes, while the Bulk Unitized Logical Ports allow Cboe BZX members to submit and update multiple quote bids and offers in one message through logical ports enabled for bulk-quoting.¹¹⁰ Cboe BZX members may purchase BOE Unitized Logical Ports individually (*i.e.*, capable of accessing a specified matching engine, but not the entire Cboe BZX options market).

The Exchange analyzed its proposed fee on an effective per port basis when compared to Cboe BZX. For purposes of this comparison, Cboe BZX charges a fee of \$350 per BOE Unitized Logical Port per month, which provides access to a single matching engine. The Exchange proposes to charge a flat fee of \$4,500 per Full Service MEO Port (Single) set, which provides Members with access to all matching engines. Breaking this down at the individual port level and cost per port, the Exchange assesses an effective per port fee of \$187.50. This is calculated by dividing the flat monthly fee for the set of Full Service MEO Ports (Single) (*i.e.*, \$4,500) by the total number of ports that a Member receives for that monthly fee, which is 24 (twelve matching engines multiplied by two Full Service MEO Ports (Single) per matching engine). When compared to the Cboe BZX per port fee for the similar type of port—BOE Unitized Logical Port—the Exchange's effective per port fee is lower than the monthly per port

¹⁰⁰ See, e.g., Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.1.9, page 8 (February 27, 2026) ("Connectivity is now managed as a port specific to a matching unit. Consequently, separate ports will be required for access to each matching unit."), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf. Cboe does provide a "convenience" port that provides the ability to interact with all matching units; however, the convenience port incurs additional latency cost and may not be as useful for market participants that are latency sensitive and require a port that is specific to each matching engine. See *id.*

¹⁰¹ See the Definitions section of the Fee Schedule.

¹⁰² See MIAx Pearl Options Exchange User Manual, Version 1.13, Section 5.01 (revision date September 2, 2025), available at https://www.miaxglobal.com/miax_pearl_user_manual.pdf.

¹⁰³ See Fee Schedule, Section 5(d), note "**".

¹⁰⁴ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

¹⁰⁵ See Securities Exchange Act Release No. 103576 (July 29, 2025), 90 FR 36207 (August 1, 2025) (SR-NASDAQ-2025-055) (describing the differences between SQF Ports and QUO Ports in footnotes 3 and 7).

¹⁰⁶ See Nasdaq Quote Using Orders Specification, Version 1.4e, Section 1.1 ("The [Nasdaq] infrastructures may consist of multiple matching engines . . . Each engine trades all of the options for a range of underlyings. . . . The QUO infrastructure is such that the firms connect to one or more servers residing directly on the matching engine infrastructure. Since there may be multiple matching engines, firms will need to connect to each engine's infrastructure in order to establish the ability to submit orders in the symbols handled by that engine.") (emphasis added).

¹⁰⁷ See the Definitions section of the Fee Schedule.

¹⁰⁸ See MIAx Pearl Options Exchange User Manual, Version 1.13, Section 5.01 (revision date September 2, 2025), available at https://www.miaxglobal.com/miax_pearl_user_manual.pdf.

¹⁰⁹ See Fee Schedule, Section 5(d), note "**".

¹¹⁰ See Securities Exchange Act Release No. 104129 (September 29, 2025), 90 FR 47390 (October 1, 2025) (SR-CboeBZX-2025-134); see also CBOE BZX Rule 21.1(l)(3).

fee assessed by Cboe BZX of \$350. Accordingly, the Exchange believes its proposed Full Service MEO Port (Single) fees are reasonable when compared to the fee charged by Cboe

BZX for its BOE Unitized Logical Port on a per port basis.

Full Service MEO Port (Bulk) Fees

The proposed Full Service MEO Port (Bulk) fees are comparable to, or lower

than, the similar port fees charged by Cboe C2, as summarized in the table below.

Exchange	Type of product/service	Monthly fee		
MIAX Pearl Options	Market Maker Full Service MEO Port (Bulk)	\$5,500	Up to 10 Classes	Up to 20% of Classes by volume (as a % of national ADV).
		8,000	Up to 40 Classes	Up to 35% of Classes by volume (as a % of national ADV).
		11,000	Up to 100 Classes	Up to 50% of Classes by volume (as a % of national ADV).
		13,000	Over 100 Classes	Over 50% of Classes by volume up to all Classes on MIAX Pearl Options (as a % of national ADV).
	EEM Full Service MEO Port (Bulk)	\$8,000		
Cboe C2 ^a	Bulk BOE Ports	\$1,500 per port for ports 1 through 5. \$2,500 per port for ports 6 or more.		

^a See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/two/.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect.

However, in a practical sense, the Exchange can surmise that a market participant would require multiple ports to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's quoting behavior requires. The Exchange does not know the actual number of purge ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of ports a firm would need to connect to another exchange's entire market and quote that entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' port fees as listed in their fee schedules.

Cboe C2. Cboe C2 charges similar, or higher, bulk order port fees than the Full Service MEO Port (Bulk) fees proposed by the Exchange. Cboe C2's Bulk BOE Ports are analogous to the Exchange's Full Service MEO Ports (Bulk). In general, Full Service MEO Ports (Bulk) means an MEO port that supports all MEO input message types and binary bulk order entry.¹¹¹ The Exchange's Full Service MEO Ports (Bulk) entitle a Member to two such

ports for each matching engine for a single monthly port fee.¹¹² The Exchange has twelve total matching engines; therefore, for one monthly fee, each Member is provided twenty-four total Full Service MEO Ports (Bulk) (*i.e.*, two per matching engine multiplied by twelve matching engines). Cboe C2's Bulk BOE Ports provide users with the ability to submit single and bulk order messages to enter, modify, or cancel orders and are intended for use by market makers quoting large numbers of simple options series.¹¹³ Each Bulk BOE Port has access to all of Cboe C2's matching units, which, according to Cboe, typically ranges from 31–35 matching units per Cboe-affiliated exchange.¹¹⁴ The Cboe C2 Bulk BOE Port does not provide a Cboe C2 market maker with a port for each matching unit and the Exchange believes that, based on the experience of its own Market Makers, it would not be feasible to quote an entire market with only a single (or handful) of ports; rather, a market maker would likely need to have a port on each matching unit to be able to quote the entire market.

The Exchange believes that Cboe C2 charges similar or higher bulk port fees as the Full Service MEO (Bulk) fees proposed by the Exchange herein for Market Makers and EEMs. Cboe C2

charges \$1,500 per port for the first five Bulk BOE Ports, and \$2,500 per port for each Bulk BOE Port utilized in excess of five ports. The Exchange proposes to charge between \$5,500 and \$13,000 per month for Full Service MEO Ports (Bulk) for Market Makers, depending on the number of classes assigned or percentage of national ADV, and \$8,000 per month for Full Service MEO Ports (Bulk) for EEMs. The Exchange's proposed rates for Market Makers and EEMs provide two such ports for each of the Exchange's twelve matching engines, for a total of twenty-four total ports for the monthly fee (between \$5,500 and \$13,000). For a Cboe C2 member to utilize a Bulk BOE Port on each matching unit, that member may need to purchase between 31 and 35 such ports. When drawing a comparison to the Exchange's proposed highest tier for Full Service MEO Ports (Bulk) for Market Makers (\$13,000), which provides an Exchange Member with 24 total ports, the Cboe C2 member would only receive seven Bulk BOE Ports for slightly less than the same price (*i.e.*, (\$1,500 per Bulk BOE Port multiplied by the first five Bulk BOE Ports) + (\$2,500 per Bulk BOE Port multiplied by the next two Bulk BOE Ports)). When drawing a comparison to the Exchange's proposed fee for Full Service MEO Ports (Bulk) for EEMs (\$8,000), which provides an Exchange Member with 24 total ports, the Cboe C2 member would only receive five Bulk BOE Ports for slightly less than the same price (*i.e.*, (\$1,500 per Bulk BOE Port multiplied by the first five Bulk BOE Ports)).

Accordingly, the Exchange believes Cboe C2 charges similar or higher bulk port fees as the Full Service MEO Port

¹¹¹ See the Definitions section of the Fee Schedule. See also MIAX Pearl Options Exchange User Manual, Version 1.13, Section 5.01 (revision date September 2, 2025), available at https://www.miaxglobal.com/miax_pearl_user_manual.pdf.

¹¹² See Fee Schedule, Section 5)d), note “*”.

¹¹³ See Securities Exchange Act Release No. 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR-C2-2018-006) and Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.10, page 45 (October 31, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf.

¹¹⁴ See Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.10, page 224 (October 31, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf.

(Bulk) fees proposed by the Exchange herein for Market Makers and EEMs.

* * * * *

Each of the above examples of other exchanges' non-transaction fees support the proposition that the Exchange's proposed fees are comparable to those of other exchanges for similar products or services and are, therefore, reasonable.

The Proposed Fees Are Equitably Allocated and Not Unfairly Discriminatory

Overall. The Exchange believes that its proposed fees are reasonable, equitable, and not unfairly discriminatory because, in sum, they are designed to align fees with services provided by amending them to levels that are comparable to similar fees for services assessed by other equity options exchanges. The Exchange believes that the proposed fees are allocated fairly and equitably among Members and non-Members because they apply to all Members and non-Members equally, and any differences among categories of fees are not unfairly discriminatory and are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all Members and non-Members that choose to purchase a particular service based on their business need. Any Member or non-Member that chooses to purchase a particular product or service is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to purchase a particular product or service is based on objective differences in usage of the particular product or service among different Members and non-Member, which are still ultimately in the control of any particular Member or non-Member. The Exchange believes the proposed pricing is equitably allocated because of the service's or product's utility and value to market participants compared to other like exchanges' products and services.

The Exchange further believes that the proposed fees are reasonable, fair and equitable, and non-discriminatory because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy.

EEM and EEM Clearing Firm Trading Permit Fees. The Exchange believes the proposed Trading Permit fees for EEMs are equitably allocated because the proposed fees would apply to each EEM in a uniform manner, depending on the type of interface that the EEM uses to access the Exchange—either FIX or

MEO—and the Non-Transaction Fees Volume-Based Tier achieved by the EEM in the relevant month.¹¹⁵ The Exchange believes the proposal to charge higher Trading Permit fees for EEMs that connect via the MEO Interface is equitable because the MEO Interface provides higher throughput and enhanced functionality compared to the FIX Interface. The MEO Interface is the Exchange's proprietary, binary interface that offers Members lower latency and higher throughput. Accordingly, the Exchange believes it is equitable to charge slightly higher Trading Permit fees for EEMs that connect via the MEO Interface compared to EEMs that connect solely through the industry-standard FIX Interface.

The Exchange believes its proposal to assess higher Trading Permit fees to EEMs that reach Tiers 2 and 3 of the Non-Transaction Fees Volume-Based Tier structure in the relevant month is not unfairly discriminatory because the volume calculations and thresholds are applied equally to all MIAAX Pearl Members. All similarly situated Members are subject to the same volume thresholds, and access to the Exchange is offered on terms that are not unfairly discriminatory. The specific volume thresholds of the Trading Permit fees were set based upon business determinations. The Exchange believes that by basing certain fees upon volume, this will permit Member firms to have the same access to the Exchange but pay fees which are proportionate to their usage of the Exchange. The same fees based upon the same volume will also be assessed to Members on an equal basis since they are assessed based upon the same volume of order flow provided. This structure has also been in place at the current volume threshold levels since the Exchange established Trading Permit fees in 2018.¹¹⁶

The Exchange believes the proposed increased Trading Permit fee for EEM Clearing Firms is equitably allocated and not unfairly discriminatory because the proposed fee would apply to each EEM Clearing Firm in a uniform manner without regard to membership status or the extent of any other business with the Exchange or affiliated entities.

Market Maker Trading Permit Fees. The Exchange believes the proposed Trading Permit fees for Market Makers are equitable as the fees apply equally to all Market Makers based upon the

number of class registrations or percentage of executed national ADV each month. The Exchange believes that assessing lower fees to Market Makers that quote in fewer classes is equitable because it will allow the Exchange to retain and attract smaller-scale Market Makers, which are an integral component of the options industry marketplace. Since these smaller Market Makers typically utilize less bandwidth and capacity on the Exchange network due to the lower number of quoted classes, the Exchange believes it is equitable to offer Market Makers Trading Permit fee tiers with lower rates based on a lower number of classes assigned or a lower percentage of executed national ADV. In addition, smaller Market Makers who want to quote greater number of classes or a higher percentage of executed national ADV, but have lower volume thresholds, the Exchange believes it is equitable to offer such Market Makers a lower fee, designated in footnote “***” following the Market Maker Trading Permit fee table.

The Exchange believes it is equitable and not unfairly discriminatory to charge higher Trading Permit fees to Market Makers that quote a higher number of classes or execute higher percentages of volume on the Exchange because the System requires increased performance and capacity in order to provide the opportunity for Market Makers to quote in a higher number of options classes on the Exchange. Specifically, more classes that are actively quoted on the Exchange by a Market Maker will require increased memory for record retention, increased bandwidth for optimized performance, increased functionalities on each application layer, and increased optimization with regard to surveillance and monitoring of such classes quoted. As such, basing the higher Market Maker Trading Permit fees on the greater number of classes quoted in on any given day in a calendar month is equitable and not unfairly discriminatory when considering how the increased number of quoted classes directly impacts the resources required for the Exchange to operate for all market participants.

Network Connectivity Fees. The Exchange believes that the proposed fees for network connectivity to the primary/secondary facility and disaster recovery facility for Members and non-Members are equitably allocated because they would apply equally to all market participants that choose to purchase such connectivity products and services from the Exchange. Any participant that chooses to purchase the

¹¹⁵ See the Definitions Section of the Fee Schedule.

¹¹⁶ See Securities Exchange Act Release No. 82867 (March 13, 2018), 83 FR 12044 (March 19, 2018) (SR-PEARL-2018-07).

Exchange's connectivity products and services would be subject to the same fees, regardless of what type of business they operate or the use they plan to make of the products and services. Additionally, the fee increases would be applied uniformly to market participants without regard to Exchange membership status or the extent of any other business with the Exchange or affiliated entities.

The Exchange believes that the proposed fees are equitably allocated among anticipated users of the network connectivity as the Exchange expects that users of 10Gb ULL connections will consume substantially more bandwidth and network resources than users of 1Gb connections. It is the experience of the Exchange and its affiliated exchanges that this is the case as 10Gb ULL connection users have historically accounted for more than 99% of message traffic over the network, which drives increased capacity utilization, while the users of the 1Gb connections account for less than 1% of message traffic over the network. In the experience of the Exchange and its affiliates, users of the 1Gb connections do not have the same business needs for the high-performance network as 10Gb ULL users.

The Exchange's high-performance network and supporting infrastructure (including employee support), provides unparalleled system throughput. To achieve a consistent, premium network performance, the Exchange built out and must now maintain a network that has the capacity to handle the message rate requirements of its most heavy network consumers. These billions of messages per day consume the Exchange's resources and significantly contribute to the overall increase in storage and network transport capabilities. The Exchange must analyze its storage capacity on an ongoing basis to ensure it has sufficient capacity to store these messages to satisfy its record keeping requirements under the Exchange Act.¹¹⁷ Given this difference in network utilization rate, the Exchange believes that it is equitable and not unfairly discriminatory that the 10Gb ULL users continue to pay higher network connectivity fees.

FIX, CTD, and FXD Port Fees. The Exchange believes that the proposed FIX, CTD and FXD Port fees are equitable and non-discriminatory because they will apply to all Members in the same manner and are not targeted

at a specific type or category of market participant engaged in any particular trading strategy. The proposed fees for each type of port (FIX, CTD or FXD) does not depend on any distinctions between Members, customers, broker-dealers, or any other entity. The proposed fee will be assessed solely based on the number of FIX, CTD or FXD Ports an entity selects and not on any other distinction applied by the Exchange. The Exchange believes offering a tiered fee structure where the fee for FIX Ports decreases with the number utilized is equitable and not unfairly discriminatory because FIX Ports are used for order entry compared to CTD and FXD Ports, which are used to provide messages concerning trade execution, cancellation, and post-trade clearing information and, in the Exchange's experience, Members tend to utilize fewer such ports overall. Further, the Exchange believes the proposed fees for FIX, CTD and FXD Ports are reasonable because for one monthly fee for each port, Members are able to access all matching engines.

MEO Purge Port Fees. The Exchange believes that the proposed Purge Port fees are equitable because Purge Ports are completely voluntary as they relate solely to optional risk management functionality. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Maker is required or under any regulatory obligation to utilize Purge Ports. In fact, some market participants, in particular the larger firms, could and do build similar risk functionality in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange for Market Makers that chose to purchase them.

Purge Ports enhance Members' ability to manage orders, which, in turn, improves their risk controls to the benefit of all market participants. The Exchange also believes that the proposed Purge Port fees are not unfairly discriminatory because they will apply uniformly to all Members that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily select this service option will be

charged the same amount for the same services based upon the number of matching engines. The Exchange also believes that offering Purge Ports at the matching engine level promotes risk management across the industry, and thereby facilitates investor protection. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality. As such, the Exchange believes the proposed fees are equitable and not unfairly discriminatory.

Limited Service MEO Port Fees. The Exchange believes the proposed fees for Limited Service MEO Ports are not unfairly discriminatory because they would apply to all Market Makers equally. All Market Makers remain eligible to receive two free Limited Service MEO Ports per matching engine and those that elect to purchase more would be subject to the same monthly rate depending upon the number they choose to utilize. In the Exchange's experience, certain Market Makers choose to purchase additional Limited Service MEO Ports based on their own particular trading/quoting strategies and feel they need a certain number of ports to execute on those strategies. Other Market Makers may continue to choose to only utilize the free Limited Service MEO Ports to accommodate their own trading or quoting strategies, or other business models. All Market Makers elect to receive or purchase the amount of Limited Service MEO Ports they require based on their own business decisions and all market participants would be subject to the same fee structure. Every Market Maker may receive up to two free Limited Service MEO Ports and those that choose to purchase additional Limited Service MEO Ports may elect to do so based on their own business decisions and would continue to be subject to the same monthly fees.

The Exchange believes that the proposed fees for Limited Service MEO Ports is reasonable, equitable, and not unfairly discriminatory because it is designed to align fees with services provided, will apply equally to all Market Makers that are assigned Limited Service MEO Ports, and minimizes barriers to entry by providing all Market Makers with two free Limited Service MEO Ports. As a result, there are several Market Makers that are not subject to any additional LSP fees. In contrast, other exchanges generally charge in excess of \$475 per port (the highest fee

¹¹⁷ 17 CFR 240.17a-1 (recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies and the Municipal Securities Rulemaking Board).

the Exchange proposes to charge for Limited Service MEO Ports) without providing any initial ports for free.¹¹⁸

The Exchange believes that the proposed Limited Service MEO Port fee structure is equitable and not unfairly discriminatory because it will continue to enable Market Makers to access the Exchange with two free ports before the proposed fees for additional Limited Service MEO Ports apply, thereby continuing to encourage order flow and liquidity from a diverse set of Market Makers, facilitating price discovery and the interaction of orders. The Exchange notes that a substantial majority of Market Makers only utilize the two Limited Service MEO Ports provided for no fee. The proposed fees are designed to encourage Market Makers to be efficient with their Limited Service MEO Port usage. There is no requirement that any Market Maker maintain a specific number of Limited Service MEO Ports and a Market Maker may choose to maintain as many or as few of such ports as each Member deems appropriate.

Full Service MEO Port (Single) Fees. The proposed fees for Full Service MEO Ports (Single) are not unfairly discriminatory because they would apply to all Market Makers equally. The Exchange believes that the proposed fee is reasonable, equitably allocated and not unfairly discriminatory because, for the flat fee each month, the Exchange provides each Member two Full Service MEO Ports (Single) for each matching engine to which that Member is connected. Unlike other options exchanges that provide similar port functionality and charge fees on a per port basis,¹¹⁹ the Exchange offers Full Service MEO Ports as a package and provides Market Makers with the option to receive up to two Full Service MEO Ports per matching engine to which it

connects. The Exchange currently has twelve matching engines, which means Market Makers may receive up to twenty-four Full Service MEO Ports (Single) for a single monthly fee. Assuming a Market Maker connects to all twelve matching engines during the month with two Full Service MEO Ports (Single) per matching engine, this would result in a cost of approximately \$187.50 per Full Service MEO Port (Single) (\$4,500 divided by 24). As described above, Full Service MEO Ports (Single) support all MEO input message types and binary order entry on a single order-by-order basis, but not bulk orders.¹²⁰ These ports may be used by market participants with less quoting or order volume than the Market Makers that utilize the Full Service MEO Ports (Bulk). Accordingly, the Exchange believes it is equitable and not unfairly discriminatory to assess a lower fee for the Full Service MEO Port (Single) as compared to the Full Service MEO Port (Bulk) for these types of market participants.

Full Service MEO Port (Bulk) Fees. The proposed fees for Full Service MEO Ports are not unfairly discriminatory because they would apply to all Market Makers equally. The Exchange's pricing structure for Full Service MEO Ports is similar to the pricing structure used by the Exchange's affiliates, MIAX, MIAX Emerald, and MIAX Sapphire, for their Full Service MEI/MEO Port fees.¹²¹ In the Exchange's experience, Members that are frequently in the highest tier for Full Service MEO Ports consume the most bandwidth and resources of the network.

To achieve a consistent, premium network performance, the Exchange must build out and maintain a network that has the capacity to handle the message rate requirements of its most heavy network consumers during anticipated peak market conditions. The need to support billions of messages per day consumes the Exchange's resources and significantly contributes to the overall need to increase network storage and transport capabilities. Thus, as the number of ports a Market Maker has increases, the related pull on Exchange resources may continue to increase.

The Exchange further believes that the proposed fees are reasonable, equitably allocated and not unfairly discriminatory because, for the flat fee in each tier, the Exchange provides each Member two Full Service MEO Ports for

each matching engine to which that Member is connected. Unlike other options exchanges that provide similar port functionality and charge fees on a per port basis,¹²² the Exchange offers Full Service MEO Ports as a package and provides Market Makers with the option to receive up to two Full Service MEO Ports per matching engine to which it connects. The Exchange currently has twelve matching engines, which means Market Makers may receive up to twenty-four Full Service MEO Ports for a single monthly fee, which can vary based on certain volume percentages or classes the Market Maker is registered in. Assuming a Market Maker connects to all twelve matching engines during the month, and achieves the highest tier for that month, with two Full Service MEO Ports per matching engine, this would result in a cost of approximately \$542 per Full Service MEO Port (\$13,000 divided by 24, and rounded up to the nearest dollar).

The Exchange believes the proposed reduced Full Service MEO Port fee for Market Makers that fall within the 3rd and 4th levels of the Full Service MEO Port fee table and certain volume thresholds are met is not unfairly discriminatory because this lower monthly fee is designed to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise execute a significant amount of volume on the Exchange. The Exchange believes that, by continuing to offer a lower fixed cost to Market Makers that execute less volume, the Exchange will continue to retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. The Exchange believes it is beneficial to incentivize these additional Market Makers to register to make markets on the Exchange to increase liquidity. Increased liquidity from a diverse set of market participants helps facilitate price discovery and the interaction of orders,

¹¹⁸ See Nasdaq, Options 7: Pricing Schedule, Section 3(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207> (providing zero free ports and charging \$750 per QUO Port, which is analogous to the Exchange's Limited Service MEO Port) and Nasdaq MRX, Options 7: Pricing Schedule, Section 6(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/mrx/rules/MRX%20Options%207> (providing zero free ports and charging \$650 per OTTO Port, which is analogous to the Exchange's Limited Service MEO Port).

¹¹⁹ See NASDAQ Pricing Schedule, Options 7, Section 3, Ports and Other Services and NASDAQ Rules, General 8: Connectivity, Section 1. Co-Location Services (similar to the MIAX Pearl Options' MEO Ports, SQF ports are primarily utilized by Market Makers); ISE Pricing Schedule, Options 7, Section 7, Connectivity Fees and ISE Rules, General 8: Connectivity; NYSE American Options Fee Schedule, Section V.A. Port Fees and Section V.B. Co-Location Fees; GEMX Pricing Schedule, Options 7, Section 6, Connectivity Fees and GEMX Rules, General 8: Connectivity.

¹²⁰ See the Definitions section of the Fee Schedule.

¹²¹ See MIAX Fee Schedule, Section 5(d)ii); MIAX Emerald Fee Schedule, Section 5(d)ii); and MIAX Sapphire Fee Schedule, Section 5(d)iii).

¹²² See NASDAQ Pricing Schedule, Options 7, Section 3, Ports and Other Services and NASDAQ Rules, General 8: Connectivity, Section 1. Co-Location Services (similar to the MIAX Pearl Options' MEO Ports, SQF ports are primarily utilized by Market Makers); ISE Pricing Schedule, Options 7, Section 7, Connectivity Fees and ISE Rules, General 8: Connectivity; NYSE American Options Fee Schedule, Section V.A. Port Fees and Section V.B. Co-Location Fees; GEMX Pricing Schedule, Options 7, Section 6, Connectivity Fees and GEMX Rules, General 8: Connectivity.

which benefits all market participants of the Exchange. Since these smaller-scale Market Makers may utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable, equitably allocated and not unfairly discriminatory to offer such Market Makers a lower fixed cost. The Exchange notes that its affiliated markets, MIAX, MIAX Emerald, and MIAX Sapphire, offer a similar reduced fee for their Full Service MEO/MEI Ports for smaller-scale Market Makers.¹²³

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For all of the foregoing reasons, the Exchange believes that the proposed fees are equitably allocated and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹²⁴ the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

EEM Trading Permit Fees

The Exchange believes the proposed Trading Permit fees for EEMs do not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition. The Exchange believes the proposed fees, which are based on the type of interface that the EEM uses to access the Exchange—either FIX or MEO—and the Non-Transaction Fees Volume-Based Tier achieved by the EEM in the relevant month,¹²⁵ are designed to provide objective criteria for EEMs of different sizes and business models that best matches their order activity on the Exchange. Further, the Exchange believes the proposed higher fees for EEMs that connect via the MEO Interface (as opposed to the FIX Interface) do not place certain market participants at a relative disadvantage to other market participants because the MEO Interface provides higher throughput and enhanced functionality compared to the FIX Interface. The MEO Interface is the Exchange's proprietary,

binary interface that offers Members lower latency and higher throughput. Accordingly, the Exchange believes the higher proposed Trading Permit fees for EEMs that connect via the MEO Interface do not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

EEM Clearing Firm Trading Permit Fee

The Exchange believes the proposed increased Trading Permit fee for EEM Clearing Firms does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed fee does not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the fee rate is the same for each EEM Clearing Firm without regard to membership status or the extent of any other business with the Exchange or affiliated entities in order for each EEM Clearing Firm to clear transactions on the Exchange.

Market Maker Trading Permit Fees

The Exchange believes that the proposed Trading Permit fees for Market Makers do not place certain market participants at a relative disadvantage to other market participants because the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the fee rates are designed in order to provide objective criteria for Market Makers of different sizes and business models that best matches their order and quoting activity on the Exchange. Further, the Exchange believes that the proposed Market Maker Trading Permit fees will not impose a burden on intra-market competition because, when these fees are viewed in the context of the overall activity on the Exchange, Market Makers: (1) consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high touch network support services provided by the Exchange and its staff, including more costly network monitoring, reporting and support services, resulting in a much higher cost to the Exchange. The Exchange notes that the majority of customer demand comes from Market Makers, whose transactions make up a majority of the volume on the Exchange. Further, other member types, *i.e.* EEMs, take up significantly less Exchange resources and costs. As such, the Exchange does not believe charging Market Makers higher Trading Permit fees than other

member types will impose a burden on intra-market competition.

The Exchange believes that the increasing fees under the tiered Market Maker Trading Permit fee structure do not impose a burden on intra-market competition because the tiered structure continues to take into account the number of classes quoted by each individual Market Maker, or percentage of total national ADV. The Exchange's system requires increased performance and capacity in order to provide the opportunity for each Market Maker to quote in a higher number of options classes on the Exchange. Specifically, the more classes that are actively quoted on the Exchange by a Market Maker requires increased memory for record retention, increased bandwidth for optimized performance, increased functionalities on each application layer, and increased optimization with regard to surveillance and monitoring of such classes quoted. As such, basing the Market Maker Trading Permit fee on the greatest number of classes quoted in on any given day in a calendar month, or percentage of total national ADV, is does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act when taking into account how the increased number of quoted classes directly impact the costs and resources for the Exchange.

Network Connectivity Fees

The Exchange believes that the proposed network connectivity fees for Members and non-Members do not place certain market participants at a relative disadvantage to other market participants or affect the ability of such market participants to compete. The proposed fees will apply uniformly to all market participants regardless of the number of 1Gb or 10Gb ULL connections they choose to purchase to the primary/secondary facility or the disaster recovery facility. The proposed fees do not favor certain categories of market participants in a manner that would impose an undue burden on competition.

The Exchange does not believe that the proposed fees for connectivity services place certain market participants at a relative disadvantage to other market participants because the proposed connectivity pricing is associated with relative usage of the Exchange by each market participant and does not impose a barrier to entry to smaller participants. The Exchange believes its proposed pricing is reasonable and, when coupled with the availability of third-party providers that also offer connectivity solutions,

¹²³ See MIAX Fee Schedule, Section 5(d)iii), note “*”; MIAX Emerald Fee Schedule, Section 5(d)ii), note “■” and MIAX Sapphire Fee Schedule, Section 5(d), note “b”.

¹²⁴ 15 U.S.C. 78f(b)(8).

¹²⁵ See the Definitions Section of the Fee Schedule.

participation on the Exchange is competitive for all market participants, including smaller trading firms. The connectivity services purchased by market participants typically increase based on their additional message traffic and/or the complexity of their operations. The market participants that utilize more connectivity services typically utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the proposed fees for connectivity services do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed connectivity fees reflects the network resources consumed by the various size of market participants and the costs to the Exchange of providing such connectivity services.

FIX, CTD, and FXD Port Fees

The Exchange believes that the proposed FIX, CTD and FXD Port fees do not place certain market participants at a relative disadvantage to other market participants because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy. The proposed fees for each type of port (FIX, CTD or FXD) do not depend on any distinctions between Members, customers, broker-dealers, or any other entity. The proposed fee will be assessed solely based on the number of FIX, CTD or FXD Ports an entity selects and not on any other distinction applied by the Exchange.

MEO Purge Port Fees

The Exchange believes that the proposed Purge Port fees do not place certain market participants at a relative disadvantage to other market participants because Purge Ports are completely voluntary as they relate solely to optional risk management functionality. Purge Ports enhance Members' ability to manage orders, which, in turn, improves their risk controls to the benefit of all market participants. Further, the proposed fees apply uniformly to all Members that choose to use the optional Purge Ports and no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily choose to utilize Purge Ports will be charged the same amount based upon the number of matching engines for each set of Purge Ports in use.

Limited Service MEO Port Fees

The Exchange does not believe its proposed fees for Limited Service MEO Ports will place certain market participants at a relative disadvantage to other market participants. All market participants would be eligible to receive two free Limited Service MEO Ports and those that elect to purchase more would be subject to the same tiered rates. All market participants purchase the amount of Limited Service MEO Ports they require based on their own business decisions and similarly situated firms are subject to the same fees.

Full Service MEO Port Fees

The Exchange does not believe proposed fees for Full Service MEO Ports will place certain market participants at a relative disadvantage to other market participants because they would apply to all EEMs and Market Makers equally, depending on whether the Member chooses to utilize a single or bulk port. Further the Exchange does not believe proposed fees for Full Service MEO Ports (Bulk) will place certain market participants at a relative disadvantage to other market participants because they would apply to all Market Makers equally depending on the number of classes the Market Maker is registered to quote in or the percentage of national ADV. The Exchange believes the proposed fees will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in the Exchange's experience, Market Makers that are frequently in the highest tier for Full Service MEO Ports (Bulk) consume the most bandwidth and resources of the network.

The Exchange further believes that the proposed fees do not place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete because, for the flat fee in each tier, the Exchange provides each Member two Full Service MEO Ports for each matching engine to which that Member is connected. Further, the Exchange offers a reduced Full Service MEO Port (Bulk) fee for Market Makers that fall within the 3rd and 4th levels of the Full Service MEO Port fee table, which lower monthly fee is designed to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do

not otherwise execute a significant amount of volume on the Exchange.

The Exchange believes that, by continuing to offer a lower fixed cost to Market Makers that execute less volume, the Exchange will continue to retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Accordingly, the Exchange believes the reduced fee will promote competition by incentivizing these additional Market Makers to register to make markets on the Exchange to increase liquidity.

Inter-Market Competition

The Exchange does not believe that the proposed changes will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. In contrast, the Exchange believes that, without the fee changes proposed herein, the Exchange is potentially at a competitive disadvantage to certain other exchanges that have in place comparable or higher fees for similar services, as described above. The Exchange believes that non-transaction fees can be used to foster more competitive transaction pricing and additional infrastructure investment and there are other options markets of which market participants may connect to trade options that charge higher or comparable rates as the Exchange for similar services and products. Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,¹²⁶ and Rule 19b-4(f)(2)¹²⁷ 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

¹²⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹²⁷ 17 CFR 240.19b-4(f)(2).

interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PEARL-2026-14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-PEARL-2026-14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>).

Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2026-14 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07040 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0310]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 22d-1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C.3501 *et seq.*), the Securities and Exchange Commission ("SEC" or "Commission") is submitting to the Office of Management and Budget (OMB) this request for extension of the proposed collection of information discussed below.

Section 22(d) of the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a-22(d)) generally prohibits the sale of redeemable securities of a registered investment company ("fund") except at a current public offering price described in the prospectus. Rule 22d-1 under the Act (17 CFR 270.22d-1) provides an exemption from section 22(d) to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met.¹ These conditions require that (1) the scheduled variation be applied uniformly to all offerees in the specified class; (2) existing shareholders and prospective investors be furnished adequate information concerning the scheduled variation, as prescribed in applicable registration statement form requirements; (3) the fund's prospectus and statement of additional information are revised to describe the new scheduled variation before any new sales load variation is made available to purchasers of fund shares; and (4) within one year of first making the scheduled variation available, existing shareholders are advised of any new sales load variation (items (2) through (4), collectively, "notice requirements").² The notice requirements of rule 22d-1 are designed to ensure that all existing and prospective investors that may be eligible for a reduction or elimination of the sales load receive timely notice regarding the details of such change.

The following estimates of average burden hours and costs are made solely

for purposes of the Paperwork Reduction Act of 1995 and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. Compliance with rule 22d-1 is required to retain or obtain the benefits of rule 22d-1. Responses to the collection of information will not be kept confidential.

We estimate that approximately 6,740 funds currently issue redeemable securities that carry a sales load.³ We estimate that each year, as many as 50% of these series may choose to offer a scheduled variation in or elimination of the sales load in reliance on the rule.⁴ Thus, it is estimated that approximately 3,370 series may become subject to the rule annually. Based on a review of internal and external data, including communications with industry representatives, we estimate that the reporting burden of compliance with rule 22d-1 is approximately 0.25 hours per respondent. This time is spent, for example, complying with the notice requirements. Accordingly, we calculate the total estimated annual internal burden of responding to be 843 hours.⁵

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-015 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by May 14, 2026.

Dated: April 8, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07050 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

³ We estimate approximately 2,942 open-end funds sold securities subject to a front-end sales load as of December 2025; in addition, we estimate approximately 3,798 non-insurance UITs offer securities with a front-end sales load reported on Form N-CEN as of December 2024; accordingly, a total of approximately 6,740 series currently issue redeemable securities subject to a front-end sales load.

⁴ The estimated 50 percent excludes those funds currently offering variations in the sales load because their estimated hourly burden is accounted for in their registration statements.

⁵ This estimate is based on the following calculation: 3,370 series × 0.25 burden hours = 843 total annual burden hours.

¹²⁸ 17 CFR 200.30-3(a)(12).

¹ A sales load is a front-end charge investors pay when buying shares.

² 17 CFR 270.22d-1(a)-(d).

**SECURITIES AND EXCHANGE
COMMISSION****Sunshine Act Meetings**

TIME AND DATE: 2:00 p.m. on Thursday, April 16, 2026.

PLACE: The meeting will be held via remote means and at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), and (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

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: April 9, 2026.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-07065 Filed 4-9-26; 11:15 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE
COMMISSION**

[OMB Control No. 3235-0435]

**Agency Information Collection
Activities; Proposed Collection;
Comment Request; Extension:
Customer Account Statements (17 CFR
242.607)**

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 607 (17 CFR 242.607) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) ("Exchange Act").

Rule 607 requires disclosure on each new account and on a yearly basis thereafter, on the annual statement, the firm's policies regarding receipt of payment for order flow from any market makers, exchanges or exchange members to which it routes customers' order in national market system securities for execution; and information regarding the aggregate amount of monetary payments, discounts, rebates or reduction in fees received by the firm over the past year.

The information collected pursuant to Rule 607 is necessary to facilitate the establishment of a national market system for securities. The purpose of the rule is to ensure that customers are adequately apprised of the broker-dealer's order routing practices with respect to the customer's order, in furtherance of the Commission's statutory mandate to protect investors.

The Commission estimates that approximately 3,342 respondents will make the third-party disclosures required in the collection of information requirements to 330,297,553 customer accounts each year. The Commission estimates that the average number of hours necessary for each respondent to comply with Rule 607 per year is 77.918 hours, which results in an average aggregated annual burden of 260,401.956 hours.

The collection of information in Rule 607 is mandatory for all respondents, but does not require the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-022 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by May 14, 2026.

Dated: April 8, 2026.

Sherry R. Haywood

Assistant Secretary.

[FR Doc. 2026-07051 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-105177; File No. SR-CboeBZX-2026-023]

**Self-Regulatory Organizations; Cboe
BZX Exchange, Inc.; Notice of Filing
and Immediate Effectiveness of a
Proposed Rule Change To Amend Its
Average Daily Quote and Average
Daily Order Fees To Be Effective April
1, 2026**

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 1, 2026, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to amend its Average Daily Quote and Average Daily Order fees to be effective April 1, 2026. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

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 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

Effective April 1, 2026, the Exchange proposes to amend its fee schedule to amend its Average Daily Quote and Average Daily Order fees.

Average Daily Quotes and Average Daily Order Fees

The Exchange proposes to revise its Average Daily Order ("ADO") and Average Daily Quote ("ADQ") fees. "ADO" represents the total number of orders for the month, divided by the number of trading days. "ADQ" represents the total number of quotes for the month, divided by the number of trading days.³ When measuring a Member's ADO, orders and cancel/replace modify orders which submit a bid or offer and do not include cancels, are included. To measure a Member's ADQ, quotes and quote updates which submit a bid or offer and do not include cancels, are included. Further, ADO will include orders submitted by a Member from all logical port types (i.e., non-unitized logical ports and Unitized Logical Ports).⁴

September 2024—Proposed ADQ Tiers & Fees

By way of background, the Exchange initially proposed its ADQ and ADO

Tiers and additional fees on September 13, 2024.⁵ Specifically, the Exchange's current tiers allow a Member to submit up to 2,000,000 average daily orders or up to 250,000,000 average daily quotes per calendar month without incurring any ADO or ADQ fees, respectively. In the event that the average number of quotes per trading day during a calendar month submitted exceeded 250,000,000, each incremental usage of up to 20,000 average daily quotes would incur an additional fee as set forth in the table below. Similarly, in the event that the average number of orders per trading day during a calendar month submitted exceeds 2,000,000, each incremental usage of up to 1,000 average daily orders would incur an additional ADO fee as set forth in the table below. A Member's ADO and ADQ would be aggregated together with any affiliated Member sharing at least 75% common ownership.

Fee				
Tier 1 ≤250,000,000	Tier 2 >250,000,000	Tier 3 >500,000,000	Tier 4 >1,000,000,000	Tier 5 >3,500,000,000
ADQ Fee Rate per 20,000 ADQ				
\$0.00	\$0.05	\$0.075	\$0.10	\$0.20
ADO Fee Rate per 1,000 ADO				
Tier 1 ≤2,000,000 \$0.00	Tier 2 >2,000,000 \$1.00	Tier 3 >2,500,000 \$1.50	Tier 4 >3,000,000 \$2.00	Tier 5 >3,500,000 \$2.50

Notably, in its initial filing the Exchange noted that while it had no way of predicting with certainty how the proposed ADQ and ADO changes would impact Member activity, it believed that based on trading activity from the months preceding its September 13, 2024 filing that, absent any changes to Member behavior, all Members would fall within proposed

ADO Tier 1 (and thus not be subject to any new fees) and that approximately 74% of Market Makers would fall within proposed ADQ Tier 1 (and thus also not be subject to any new fees). With regards to the remaining Market Makers (approximately 26%), the Exchange estimated that based on their current activity, and absent any changes to their behavior, that such Market

Makers would fall into the following ADQ Tiers: approximately 3 Market Makers in Tier 2; approximately 6 Market Makers in Tier 3; approximately 3 Market Makers in Tier 4; and no Market Makers in Tier 5.

The Exchange notes that a Member's ADO and ADQ rates will naturally vary

³ The term "quote" refers to bids and offers submitted in bulk messages. A bulk message means a single electronic message a user submits with an M (Market-Maker) capacity to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. A User may submit a bulk message through a bulk port as set forth in Exchange Rule 21.1(l)(3). See Rule 16.1 (definition of bulk message).

⁴ Only quotes may be placed via Unitized Bulk Ports, as such, only Unitized Ports are used to determine a Member's ADQ.

⁵ The Exchange initially submitted the proposed rule change on August 30, 2024, which was immediately effective upon filing on September 3, 2024 (SR-CboeBZX-2024-082). Subsequently, on September 13, 2024, the Exchange withdrew that filing and submitted SR-Cboe-BZX-2024-088.

⁶ Importantly, the Exchange notes that it will, from time to time, review actual ADQ and ADO rates, and that based on a review of such data, may choose to adjust its ADO and ADQ Tiers and fees accordingly. While the Exchange is now proposing to double the upper bound of proposed ADQ Tier 1 and increase the upper bounds of Tiers 2-4 such that a greater level of quoting activity is permitted before Market Makers are subject to increased fees as their quoting activity places them in progressively higher Tiers, a review of future data could in fact justify the Exchange proposing to narrow its ADQ Tiers (or ADO Tiers) in order to achieve its purpose of encouraging efficient quoting behavior so that market participants do not exhaust System resources.

⁷ While allocation of Market Makers differed from that initially estimated by the Exchange in its initial filing, the Exchange notes that average daily volume ("ADV") in August 2025 across Cboe's four U.S.

options exchange was at an all-time high of 19.2 million contracts, comprised of: record multi-listed options ADV of 14.3 million contracts, which surpassed the ADV record of 13.6 million contracts set in February 2025; and S&P 500 Index (SPX) options ADV of 3.8 million contracts, the second-best month of all time, with zero-days-to-expiry (0DTE) trading representing a record ADV of 2.4 million contracts. In this regard, the Exchange notes that its September 2024 estimates were skewed in large part to unforeseeable record-setting ADV volume in options contract trading. See "Cboe Global Markets Reports Trading Volume for August 2025," available at: <https://ir.cboe.com/news/news-details/2025/Cboe-Global-Markets-Reports-Trading-Volume-for-August-2025/default.aspx?text=20multi%20options%20ADV,ADV%20of%202.4%20million%20contracts>.

based on options trading volume on the Exchange, and given the record options trading volume through 2025, the Exchange recently undertook to analyze actual ADO and ADQ rates for 2025.⁶ In

doing so, the Exchange observed that the actual ADQ rates for its Market Makers differed from the estimates utilized by the Exchange to establish its initial ADQ Tiers and their additional

fees. Specifically, the Exchange's data showed that the Exchange's market makers fell into the following tiers:⁷

Month	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
January 2025	10	3	3	2	1
February 2025	10	3	3	2	1
March 2025	9	3	3	3	1
April 2025	8	2	4	2	2
May 2025	9	3	3	2	1
June 2025	9	2	4	2	1
July 2025	9	4	2	2	1
August 2025	9	4	2	2	0
September 2025	11	3	2	2	1
October 2025	11	2	2	4	0
November 2025	12	2	2	3	0
December 2025	13	2	2	3	0

April 2026—Proposed ADQ Tiers and Fees

Given the actual ADQ rates, the Exchange now proposes that, effective April 1, 2026, a Market Maker may submit up to 500,000,000 average daily quotes per calendar month without incurring any ADQ additional fees. In the event that the average number of quotes per trading day during a calendar month exceeds 500,000,000, each incremental usage of up to 20,000 average daily quotes will incur an

additional fee as set forth in the table below. Moreover, as initially proposed, a Market Maker's ADQ will still be aggregated together with any affiliated Market Maker sharing at least 75% common ownership.

The proposed ADQ tiers and additional fees are set forth in the table below. The Exchange proposes that the proposed ADQ Tiers and fees will be effective beginning April 1, 2026. The Exchange believes the proposed ADQ fees are reasonable as Members that do not exceed the high threshold of

500,000,000 ADQ will not be charged any fee under the proposed tiers. Moreover, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to assess higher fees when a Member has higher ADO and ADQ rates because these Members utilize a greater proportion of the Exchange's Trading System resources, and as such, the Exchange believes that Members who choose to enter orders or quote at the very high ADQ rates established by the Exchange should reasonably expect to be charged more.

	Fee				
	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
ADQ Fee Rate per 20,000 ADQ	<=500,000,000	>=500,000,001	>=1,000,000,001	>=1,500,000,001	>=2,000,000,001
	\$0.00	\$0.05	\$0.075	\$0.125	\$0.20

As an example, a Market Maker that has 1,000,040,000 ADQ would subsequently have 50,002 "ADQ increments" (1,000,040,000 ADQ/20,000 ADQ increments). While 25,000 of the 50,002 ADQ increments are free within Tier 1, 25,000 of the ADQ increments would be fee liable at \$0.050 within Tier 2, and 2 of the ADQ increments would be fee liable at \$0.075 within Tier 3, resulting in a total ADQ fee of \$1,250.15 (Tier 2 total of \$1,250 + Tier 3 total of \$0.15) for that month.⁸

The Exchange notes that in the event a firm has an odd lot increment, that they will not be charged a prorated portion of that increment. For example, if a firm has 1,000,010,000 ADQ, they would be charged based on 50,000

(1,000,000,000/20,000) increments as the remainder of 10,000 does not hit the 20,000 ADQ increment.⁹

ADO Rates

With regards to ADO, the Exchange is not proposing to change the ADO tiers and additional tiers from those initially proposed. The Exchange does not propose to amend the ADO tiers as it believes they are properly calibrated to current market activity. When the ADO Tiers were first contemplated, the Exchange noted that based on the prior month's activities, that all firms would fall into the proposed Tier 1, and thus, would not be fee liable. As this has remained largely consistent with what the Exchange sees now (unlike the ADQ

levels which have varied from initial projections), the Exchange finds it appropriate to leave the ADO Tiers as they stand at this time. Specifically, a Market Maker may still submit up to 2,000,000 average daily orders per calendar month without incurring any ADO fees. In the event that the average number of orders per trading day during a calendar month exceeds, 2,000,000, each incremental usage of up to 1,000 average daily orders will incur an additional ADO fee as set forth in the table below. Moreover, as initially proposed, a Member's ADO will still be aggregated together with any affiliated Member sharing at least 75% common ownership.

⁸ The Exchange proposes to include this example in the Fees Schedule to provide further clarity as to the application of the proposed fees.

⁹ The Exchange proposes to include this example in the Fees Schedule to provide further clarity as to the application of the proposed fees.

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
ADO Fee Rate per 1,000 ADO	lt;2,000,000	>=2,000,001	>=2,500,001	>=3,000,001	>=3,500,001
	\$0.00	\$1.00	\$1.50	\$2.00	\$2.50

The Exchange notes that market participants with incrementally higher ADO or ADQ are likely to require more of the Exchange's Trading System resources, bandwidth, and capacity. In this regard, the Exchange believes it appropriate to charge additional fees to Members that utilize more of the Exchange's Trading System's resources, particularly when their ADO or ADQ rates reach levels as high as 3.5 million orders or 3 billion quotations. This is demonstrated by the fact that, as noted previously, almost all firms fall into the lower Tier 1 for ADO and, the majority of firms fall into Tier 1 for ADQ. Using the new thresholds and firm messaging rates in December, only 10% of Market Makers fell into Tier 4 and no Market Makers fell into Tier 5. Moreover, at elevated order entry and quoting rates, it is feasible that at some point, such Member activity could create System latency and potentially impact other Members' ability to receive timelier executions. While the Exchange and its Members have yet to experience Exchange Trading System latency due to high order and quotation rates, the Exchange believes its proposed ADQ and ADO rates are designed to strike an appropriate balance between permitting high rates of order and quoting activity at levels that do not incur a fee, and assessing fees for order and quoting activity at levels that get so high that they could begin to impact System capacity. Indeed, the proposed fee structure has multiple thresholds, and the proposed fees are incrementally greater at higher ADO and ADQ rates, and the Exchange believes this framework accurately and fairly reflects such rationale.

The Exchange also represents that the proposed fees are not intended to raise profits. While the Exchange's proposal assesses additional fees to Members that utilize a greater share of the Exchange's Trading System resources, the Exchange notes that a Member would have to exceed the high ADO rate of 2,000,000 and a Market Maker would have to exceed the high ADQ rate of 500,000,000 before that market participant would be charged a fee under the proposed respective tiers. Moreover, the Exchange's proposal will double the upper bound of ADQ Tier 1, and increase the upper bounds of Tiers 2–4, thereby enabling Market Makers to

quote at increased levels before they are placed in progressively higher Tiers. The Exchange also notes that it provides Members with daily reports, free of charge, which details their order and trade activity in order for those firms to be fully aware of all order and trade activity they (and their affiliates) are sending to the Exchange. This will allow Members to monitor their behavior and determine whether it is approaching any of the ADO or ADQ thresholds that trigger the proposed fees. Lastly, the Exchange notes that other exchanges have adopted various fee programs that assess incrementally higher fees to Members that have incrementally higher order and/or quoting trading activity for similar reasons.¹⁰

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect

investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)¹⁴ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed ADO and ADQ fees are reasonable as Members that do not exceed the high thresholds of 2,000,000 ADO and 500,000,000 ADQ will not be charged any fee under the proposed tiers. Importantly, the ADQ thresholds are also designed to ensure Market Makers' quoting activity, which acts as an important source of liquidity, is not impeded by the proposal.¹⁵ In this regard, the Exchange further notes that its proposed ADQ Tiers and additional fees are designed to enable Market Makers to quote at increasingly higher levels before moving between Tiers and being assessed higher fees. Specifically, the Exchange notes that it has doubled the upper bound of Tier 1 (250M to 500M), enabling Market Makers to enter quotations at even higher rates and not be assessed a fee. Moreover, the Exchange has increased the upper bounds of Tier 2, Tier 3, and Tier 4, such that Market Makers can quote at even higher rates (compared to the prior Tiers) in each of these Tiers, before being assessed progressively higher fees. Overall, the Exchange believes this proposed framework will not hinder market quality, but rather potentially encourage even greater levels of quoting activity, while also appropriately charging those Market Makers that utilize more of the System's resources. Specifically, the Exchange notes the following regarding its proposed ADQ Tiers:

¹³ *Id.*

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ Since the implementation of the proposal on September 3, 2024, the Exchange notes that it has not received any feedback from Market Maker participants that the proposal has impeded their ability to meet their quoting obligations.

¹⁰ See, e.g., Securities Exchange Act Release No. 60102 (June 11, 2009), 74 FR 29251 (June 19, 2009) (SR-NYSEArca-2009-50) (adopting fees applicable to Members based on the number of orders entered compared to the number of executions received in a calendar month). It appears that Nasdaq similarly assesses a penalty charge to its members that exceed certain "weighted order-to-trade ratios". See *Price List—Trading Connectivity*, NASDAQ, available at <https://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2>. See also Securities Exchange Act Release No. 91406 (March 25, 2021), 86 FR 16795 (March 31, 2023) (SR-EMERALD-2021-10) (adopting an "Excessive Quoting Fee" to ensure that Market Makers do not over utilize the exchange's System by sending messages to the MIAX Emerald, to the detriment of all other Members of the exchange).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

- Tier 1: The upper bound of Tier 1 doubled, from 250M to 500M. In effect, Market Makers will now be able to quote at levels 2× greater than they can under current Tier 1, without being charged a fee.

- Tier 2: The upper bound of Tier 2 increased from 500M, to 1BN. In effect, Market Makers will now be able to quote up to 2× the level they are currently able to under existing Tier 2—for a fee of \$0.05—before falling into Tier 3 and being charged the higher fee of \$0.075.

- Tier 3: The upper bound of Tier 3 increased from 1BN, to 1.5BN. In effect, Market Makers will now be able to quote up to 1.5× the level they are currently able to under existing Tier 3—for a fee of \$0.075—before falling into Tier 4 and being charged the higher additional fee of \$0.125.

- Tier 4: The upper bound of Tier 4 decreased from 3.5BN to 3 BN. However, the Exchange notes that a Market Maker quoting up to 3B in ADQ is ultimately charged the same fee (\$12,500) under the prior structure and the proposed structure.

- Tier 5: Market Maker quoting activity falls into Tier 5 at quoting levels 500M less than under the current Tier 5—i.e., above 3BN vs. above 3.5BN. While the threshold has been lowered for Tier 5 from 3,500,000,001 to 3,000,000,001, the Exchange does not believe this is significant. This is demonstrated by the fact that in using the revised Tier 5 threshold in conjunction with the activity in 2025, no additional firms would have fallen into Tier 5.

Accordingly, the Exchange believes the proposed Tiers and additional fees are designed to foster broader participation by Market Makers before they are assessed higher additional fees, thereby improving market quality and fostering better execution quality.

As noted above, the Exchange also believes it is reasonable, equitable and not unfairly discriminatory to assess higher fees when a Member has higher ADO and ADQ rates because these Members utilize a greater proportion of the Exchange's Trading System resources, and as such, the Exchange believes that Members who choose to enter orders or quote at the very high ADQ and ADO rates established by the Exchange should reasonably expect to be charged more. Moreover, the Exchange provides all Members with free reports to help them monitor their ADO and ADQ activity, and Members can use such information to adjust their ADO and ADQ levels accordingly. In this regard, the Exchange believes that all Members are afforded equal

opportunity to adjust their Exchange activity accordingly.

While the Exchange's Trading System resources have yet to be negatively impacted by Members' elevated ADO and/or ADQ rates, the Exchange nevertheless believes that it is in the interests of all Members, and market participants who access the Exchange, to charge additional fees to Members that utilize a greater proportion of the Exchange's resources, so as deter ADO and ADQ rates from continually increasing and ultimately, at some point, negatively impacting the Exchange's capacity. In this regard, the Exchange believes that the proposed fees are one method of facilitating the Commission's goal of ensuring that critical market infrastructure has "levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets."¹⁶

Moreover, the Exchange believes that the proposed ADO and ADQ fees are equitable and not unfairly discriminatory because they will be assessed uniformly to similarly situated users in that all Members that exceed the thresholds in connection with ADO and ADQ will be assessed the proposed ADO and ADQ rates. Regarding ADO and ADQ, no market participant is assessed any fees unless it exceeds the proposed thresholds. The Exchange also believes it is equitable and not unfairly discriminatory to assess incrementally higher fees to Members that have higher ADO and ADQ rates because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased ADO and ADQ.

Furthermore, the Exchange believes it is equitable and not unfairly discriminatory to aggregate Members trading activity with any affiliated Member sharing at least 75% common ownership¹⁷ in order to prevent

¹⁶ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (File No. S7-01-13) (Regulation SCI Adopting Release).

¹⁷ The Exchange notes that its usage of 75% of common ownership is standard practice and utilized by the Exchange's affiliated exchanges. For instance, Cboe EDGX Exchange, Inc. options Market Maker Order-to-Trade Ratio fees provide that Order-to-Trade Ratio fees will apply only to participants registered as Market Makers on EDGX Options. The Order-to-Trade ratio will be calculated monthly based on the total number of orders (including messages to modify orders) submitted to EDGX Options, regardless of capacity, divided by the total number of trades occurring on orders. The calculation of the ratio will not include quotes or trades resulting from such quotes. A Market Maker's order flow will be aggregated together with any affiliated Members sharing at least 75% common ownership." See Cboe U.S. Options Fee Schedule, EDGX Options, available at: <https://www.cboe.com/>

members from shifting their order flow or quoting activity to other affiliates in order to circumvent the ADO and ADQ thresholds.

The Exchange lastly believes that its proposal is reasonable, equitably allocated and not unfairly discriminatory because it is not intended to raise revenue for the Exchange; rather, it is intended to encourage efficient behavior so that Members do not exhaust System resources. Moreover, as noted above, competing options exchanges similarly assess fees to deter Members from over utilizing their respective systems by having excessive order and/or quoting trading activity.¹⁸

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange is only one of 18 options exchanges which market participants may direct their order flow and/or participate on, and it represents a small percentage of the overall market.¹⁹ When determining reasonable prices, the Exchange must ensure these are competitive prices in order to maintain market share, as uncompetitive pricing, or prices that Members deem to be excessive, can lead Members to take their order flow to other exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change to adopt ADO and ADQ fees will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because such fees will apply equally to all similarly situated Members. Particularly, the proposed fees apply uniformly to all Members, in that any Member who exceeds the ADO and/or ADQ Tier 1 thresholds will be subject to a fee under the proposed corresponding tiers. The Exchange believes that the proposed change neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue

[us/options/membership/fee_schedule/edgx/](https://www.cboe.com/us/options/membership/fee_schedule/edgx/); see also Nasdaq BX Options 7 Pricing Schedule, "The term 'Common Ownership' shall mean participants under 75% common ownership or control . . ." available at: <https://listingcenter.nasdaq.com/rulebook/bx/rules/bx-options-7>.

¹⁸ See *supra* note 11.

¹⁹ See Cboe Global Markets, U.S. Options Market Volume Summary, Month-to-Date (August 27, 2024), available at https://www.cboe.com/us/options/market_statistics/ which reflects the Exchange representing only 3.3% of total market share.

burden on competition. Rather, the proposal seeks to benefit all market participants by encouraging the efficient utilization of the Exchange's network while taking into account the important liquidity provided by its Members. As discussed above potential impact on exchange systems, bandwidth, and capacity becomes greater with increased ADO and ADQ rates. Accordingly, the Exchange believes that the proposed ADO and ADQ fees do not favor certain categories of market participants in a manner that would impose a burden on competition.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for order flow. Market Participants have numerous alternative venues that they may participate on, including 17 other options exchanges (including 3 other Cboe-affiliated options exchanges), as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."²⁰ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker

dealers' . . .".²¹ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²² and paragraph (f) of Rule 19b-4²³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2026-023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-CboeBZX-2026-023. This file number should be included on the subject line if email is used. To help the Commission process and review your

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2026-023 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07039 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0269]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 17f-5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or "Commission") is submitting to the Office of Management and Budget (OMB) this request for this extension of the proposed collection of information below.

Rule 17f-5 (17 CFR 270.17f-5) under the Investment Company Act of 1940 [15 U.S.C. 80a] (the "Act") governs the custody of the assets of registered management investment companies ("funds") with custodians outside the United States. Under rule 17f-5, a fund or its foreign custody manager (as delegated by the fund's board) may maintain the fund's foreign assets in the care of an eligible fund custodian under certain conditions. If the fund's board delegates to a foreign custody manager authority to place foreign assets, the fund's board must find that it is reasonable to rely on each delegate the

²⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²¹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f).

²⁴ 17 CFR 200.30-3(a)(12).

board selects to act as the fund's foreign custody manager. The delegate must agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care, in performing the delegated services. When the foreign custody manager selects an eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the performance of the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f-5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,¹ and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The

requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.²

Commission staff estimates that each year, approximately 55 registrants³ could be required to make an average of one response per registrant under rule 17f-5. A "response" may involve the fund's directors making certain findings concerning foreign custody managers, and the review and ratification of custodial contracts. Commission staff estimates a response relating to these matters will require approximately 2.5 hours of board of director time per response, to make the necessary findings concerning foreign custody managers, and 1 hour of related compliance attorney time per response, to assist the fund board.⁴ For registrants, the total annual burden associated with these requirements of the rule is up to approximately 192.5 hours (55 responses $\times$ 3.5 hours per response).

Foreign custody managers are also affected by the collection of information requirements under rule 17f-5. Commission staff estimate that, in connection with each registrant's board of directors making certain findings concerning a foreign custody manager, those findings will require approximately 20 hours of trust administrator time from the applicable manager. This burden relates to the foreign custody manager's initial considerations regarding custodial arrangements with the registrant and preparing reports to the fund board.⁵ Commission staff further estimate that annually, approximately 15 foreign custody managers will be required to

make an average of 4 responses per manager concerning the use of foreign custodians other than depositories.⁶ This "response" may involve the foreign custody manager establishing bank custody arrangements, negotiating/re negotiating custodial contracts, preparing reports to fund boards, and establishing and/or amending the foreign custody manager's system for monitoring custody arrangements for its clients. The staff estimates that each response will take approximately 250 hours of trust administrator time, requiring approximately 1000 total hours annually per foreign custody manager (4 responses per foreign custody manager $\times$ 250 hours per response). Thus, the total annual burden for foreign custody managers associated with the requirements of the rule is approximately 16,100 hours ((55 responses by foreign custody managers to registrants for initial consideration $\times$ 20 hours per response) + (15 foreign custody managers $\times$ 4 responses per manager) $\times$ 250 hours per response).

Therefore, the total annual burden of all collection of information requirements of rule 17f-5 is estimated to be up to 16,292.5 hours (192.5 hours + 16,100 hours). The total monetized annual cost of burden hours is estimated to be \$5,344,500 ((192.5 hours $\times$ \$3,760/hour blended wage rate) + (16,100 hours $\times$ \$287/hour for a trust administrator's time)).⁷ Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets with foreign custodians.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

² The staff believes that subcustodian monitoring does not involve "collection of information" within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) ("Paperwork Reduction Act").

³ This figure is an estimate of the number of new management investment company registrants each year, based on data reported on Form N-CEN as of December 2022, 2023, and 2024; Commission staff anticipates that the number of existing registrants that change their foreign custody managers is negligible and, therefore, the compliance burden of rule 17f-5 falls primarily on new registrants; in practice, not all registrants will use foreign custody managers; the actual figure therefore may be smaller.

⁴ As discussed below, Commission staff estimate that a response from a registrant will also include a related burden for the applicable foreign custody manager chosen by the registrant's board of directors.

⁵ This estimate does not include burden hours related to the establishment and/or amendment of the foreign custody manager's system for monitoring custody arrangements for its clients, which is accounted for separately as discussed below.

⁶ This figure is based on the staff's estimate of the number of global custodians that may act as foreign custody managers under rule 17f-5.

⁷ The rates used to create the blended rate are as follows: board of director time—\$5,085 and compliance attorney time—\$449; staff estimates concerning wage rates for the cost of board of director time are based on fund industry representations; based on fund industry representations, the staff estimated in 2014 that the average cost of board of director time, for the board as a whole, was \$4,000 per hour; adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately \$5,085 per hour; estimates concerning wage rates for compliance attorneys and trust administrators are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association and modified by Commission staff for 2025; the compliance attorney and trust administrator wage figures are based on published rates for each, modified to account for a 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead; see Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

¹ See section 17(f) of the Act. 15 U.S.C. 80a-17(f).

unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-012 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by May 14, 2026.

Dated: April 9, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07080 Filed 4-10-26; 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 (SEC or Commission) will host a public roundtable on Thursday, April 16, 2026, from 9:00 a.m. to 3:15 p.m. (ET). The meeting will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 8 a.m. (ET). Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at www.sec.gov, and a recording will be posted at a later date.

PLACE: The roundtable will be held in the Auditorium at the SEC's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

MATTERS TO BE CONSIDERED: The SEC will host a public roundtable to discuss options market structure, including facilitating competition in a quote-

driven market, evaluating the customer experience, and opportunities and challenges of growth. The roundtable is open to the public, who must register at this link.

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: April 9, 2026.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-07079 Filed 4-9-26; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0632]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 12h-1(f)

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 12h-1(f) (17 CFR 240.12h-1(f)) under the Securities Exchange Act of 1934 ("Exchange Act") provides an exemption for private, non-reporting issuers from Exchange Act Section 12(g) registration for compensatory employee stock options issued under employee stock option plans where certain conditions, including certain information provision conditions, are present. Among other things, the exemption requires an issuer to provide information to option holders and holders of shares received on exercise of compensatory employee stock options. The information required under Rule 12h-1(f) is mandatory and is not filed with the Commission. Issuers may provide the information to the option holders either by: (i) physical or electronic delivery of the information; or (ii) written notice to the option holders of the availability of the information on a password-protected internet site. We estimate that 25% of the 2 hours per response (0.5 hours) is carried internally by the issuer for a

total annual burden of 20 hours (0.5 hours per response × 40 responses annually). We estimate that 75% of the 2 hours per response (1.5 hours) is carried externally by outside professionals retained by the issuer at an estimated rate of \$600 per hour for a total annual cost burden of \$36,000 (1.5 hours per response × \$600 per hour × 40 responses annually).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-010 or send an email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by May 14, 2026.

Dated: April 8, 2026.

Sherry R. Haywood,
Assistant Secretary

[FR Doc. 2026-07048 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0538]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Form ADV-H

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information.

The title for the collection of information is "Form ADV-H under the Investment Advisers Act of 1940." Form ADV-H (17 CFR 279.3) under the Investment Advisers Act of 1940 ("Advisers Act") is the application that investment advisers use to request a hardship exemption from making Advisers Act filings electronically with the Investment Adviser Registration Depository ("IARD").

There are two types of hardship exemptions from making Advisers Act filings through IARD: a temporary hardship exemption and a continuing hardship exemption. Advisers Act rule 203-3 (17 CFR 275.203-3) sets forth

requirements for both temporary hardship exemptions and continuing hardship exemptions for advisers registered or registering with the Commission. Advisers Act rule 204–4(e) (17 CFR 275.204–4(e)) sets forth requirements for temporary hardship exemptions for exempt reporting advisers.

A temporary hardship exemption is available to advisers registered or registering with the Commission, as well as exempt reporting advisers, if the adviser has unanticipated technical difficulties that prevent it from submitting a filing to the IARD system. To apply for a temporary hardship exemption, the adviser must file Form ADV–H in paper format no later than one business day after the subject filing was due and submit the subject filing electronically through IARD no later than seven business days after the subject filing was due. The temporary hardship exemption is granted when the adviser files the completed Form ADV–H.

A continuing hardship exemption provides an exemption from electronic filing for no more than one year. It is available to certain advisers registered or registering with the Commission; it is not available to exempt reporting advisers. Such adviser must be a small business and be able to demonstrate that the electronic filing requirements are prohibitively burdensome or expensive. To apply for a continuing hardship exemption, an adviser must file Form ADV–H at least ten business days before a filing is due. The Commission will grant or deny the application within ten business days after the adviser files Form ADV–H. If the Commission approves the application, the adviser may submit filings to FINRA in paper format for the period of time for which the exemption is granted.

The purpose of the collection of information is to enable the Commission to process requests for temporary hardship exemptions and to determine whether to grant a continuing hardship exemption from the requirement for advisers to make Advisers Act filings electronically through IARD.

Respondents are investment advisers registered or registering with the Commission, as well as exempt reporting advisers. Based on our experience and data, we estimate that there are 22,495 respondents, consisting of 16,404 registered investment advisers and 6,091 exempt reporting advisers. Of those respondents, we estimate that we would receive two responses annually, and each response would take approximately one hour to complete. Therefore, we estimate an annual

aggregate burden of two hours for this collection of information.

The collection of information does not require recordkeeping or records retention. The collection of information requirements are mandatory. The information collected is a filing with the Commission, and is not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-013 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by May 14, 2026.

Dated: April 9, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–07081 Filed 4–10–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105176; File No. SR–NASDAQ–2026–025]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the iShares Bitcoin Trust ETF and iShares Ethereum Trust ETF

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 31, 2026, 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 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 the iShares® Bitcoin Trust ETF (“IBIT”) and the iShares® Ethereum Trust ETF (“ETHA”) to permit IBIT and ETHA to

come under the generic listing standards in Rule 5711(d) by Q3 of 2026.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission approved the listing and trading of shares (“IBIT Shares”) of IBIT on the Exchange pursuant to Nasdaq Rule 5711(d)³ on January 10, 2024.⁴ The Commission also approved the listing and trading of shares (“ETHA Shares”) of ETHA on the Exchange pursuant to Nasdaq Rule 5711(d) on May 23, 2024.⁵ The Exchange

³ The Commission approved Nasdaq Rule 5711(d) in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR–NASDAQ–2012–013). The Commission subsequently approved amendments to Rule 5711(d) to adopt generic listing standards for Commodity-Based Trust Shares. See Securities Exchange Act Release No. 103995 (September 17, 2025), 90 FR 45414 (September 22, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SR–NYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) (“Generic Listing Standards”).

⁴ See Securities Exchange Act Release Nos. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (SR–NYSEARCA–2021–90; SR–NYSEARCA–2023–44; SR–NYSEARCA–2023–58; SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SR–CboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SR–CboeBZX–2023–044; SR–CboeBZX–2023–072) (“Bitcoin ETP Approval”); and 103571 (July 29, 2025), 90 FR 36248 (August 1, 2025) (SR–NASDAQ–2025–008; SR–NASDAQ–2025–038; SR–CboeBZX–2025–010; SR–CboeBZX–2025–023; SR–CboeBZX–2025–031; SR–CboeBZX–2025–033; SR–CboeBZX–2025–035; SR–CboeBZX–2025–050; SR–NYSEARCA–2025–38) (“In-Kind Approval”) and together with Bitcoin ETP Approval, the “IBIT Filing”).

⁵ See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations: NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

previously filed to permit IBIT and ETHA to operate in reliance on the Generic Listing Standards instead of the terms of the IBIT Filing and ETHA Filing, as applicable, and indicated that IBIT and ETHA would comply with the Generic Listing Standards by Q1 2026.⁶ The Exchange now proposes to extend the effective date of compliance to Q3 2026 in order to provide the sponsor with additional time to operationalize the conversion of IBIT and ETHA to the Generic Listing Standards.

Upon switching over to the Generic Listing Standards, IBIT and ETHA will each meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as set forth in that rule. Upon switching over, any requirements for listing as specified in the IBIT Filing and ETHA Filing, as applicable, that differ from the requirements of the Generic Listing Standards will no longer be applicable to such security.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,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 proposed changes extend the timing by which IBIT and ETHA would switch over to operate in reliance on the Generic Listing Standards (instead of the terms of the IBIT Filing and ETHA Filing, as applicable) from Q1 to Q3 of this year. As noted above, this is to allow the sponsor with additional time to operationalize the conversion of IBIT and ETHA to the Generic Listing Standards in Rule 5711(d). Upon switching over to the Generic Listing Standards, IBIT and ETHA will each meet the requirements of the Generic Listing Standards under Rule 5711(d)

and will be required to comply with the continued listing standards on an ongoing basis, as set forth in that rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange is extending the timing by which IBIT and ETHA would convert their listings under the terms of the IBIT Filing and ETHA Filing, as applicable, to the Generic Listing Standards. Upon switching over to the Generic Listing Standards, IBIT and ETHA will each meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as set forth in that rule. Accordingly, the Exchange does not believe its proposal would impose any undue burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)¹² thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant

to Rule 19b-4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the date of IBIT and ETHA conversion to the Generic Listing Standards is extended to Q3 2026. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the extension does not introduce any regulatory issues. Until the conversion, IBIT and ETHA will instead be required to meet the continued listing requirements as contemplated by the IBIT Filing and ETHA Filing, respectively. Accordingly, the Commission designates the proposed rule change to be operative upon filing.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2026-025 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-2026-025. This file number should be included on the

Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products ("ETH ETP Approval"); and In-Kind Approval (In-Kind Approval together with ETH ETP Approval will hereinafter be referred to as the "ETHA Filing").

⁶ See Securities Exchange Act Release No. 104130 (September 29, 2025), 90 FR 47411 (October 1, 2025) (SR-NASDAQ-2025-082) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend iShares Bitcoin Trust and iShares Ethereum Trust).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹³ 17 CFR 240.19b-4(f)(6).

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).

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-2026-025 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07038 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0057]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Regulation 14C (Commission Rules 14c-1 through 14c-7 and Schedule 14C)

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission also is requesting approval from OMB to designate this existing collection of information (OMB Control No. 3235-0057) as a "common form" for purposes of PRA submissions¹ because the Board

of Governors of the Federal Reserve System uses this information collection (under OMB Control No. 7100-0091). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation 14C (17 CFR 240.14c-1 through 14c-7) and Schedule 14C (17 CFR 240.14c-101) set forth the requirements for the dissemination, content, and filing of the information statement required under Section 14(c) of the Securities Exchange Act of 1934. Those rules and schedule are intended to ensure that issuers that do not solicit proxies or consents provide all relevant security holders with material information as prescribed under the proxy rules. We estimate that Schedule 14C takes approximately 149.74 hours per response and is filed once per year by approximately 354 respondents, for a total of approximately 354 responses annually. We estimate that 75% of the 149.74 hours per response is carried internally by the respondent for annual reporting burden of 39,756 hours ((75% × 149.74 hours per response) × 354 responses). We estimate that 25% of the 149.74 hours per response is carried externally by outside professionals retained by the respondent at an estimated rate of \$600 per hour for a total annual cost burden of \$7,951,194 ((25% × 149.74 hours per response) × \$600 per hour × 354 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of

purpose can obtain approval to use the 'common form' by providing its agency-specific information to OMB (e.g., burden estimates and number of respondents). . . . The host agency will indicate in the **Federal Register** notices that it is requesting approval of a common form and, if known, identify other agencies that may use the information collection. Both the **Federal Register** notices and the ICR should account only for the burden imposed by the host agency's use of the common form. Once the host agency has received approval from OMB, any agency will be able to request OMB approval for its use of the common form in ROCIS by providing its agency specific information to OMB (e.g., burden estimates and number of respondents). Additional public notice by those agencies will not be required."

information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by June 12, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: April 9, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07082 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0689]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 203A-2(d)

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is submitting to the Office of Management and Budget ("OMB") this request for an extension of the proposed collection of information described below.

Section 203A of the Investment Advisers Act of 1940 ("Advisers Act") prohibits certain advisers from registering with the Commission, including those that are smaller and those that advise a Commission-registered investment company. 17 CFR 275.203A-2(d) ("rule 203A-2(d)") provides an exemption from that prohibition. Under rule 203A-2(d), an adviser may register with the Commission if it would otherwise be required to register with 15 or more states. To rely on rule 203A-2(d), an adviser must do the following: (1) indicate on Schedule D of Form ADV that it has concluded that it is required to register in 15 or more states; (2) include an undertaking on Schedule D of Form ADV that it will withdraw its registration if it indicates on its annual updating amendment that the adviser is no longer required to register with at

¹⁶ 17 CFR 200.30-3(a)(12) and (59).

¹ See ROCIS PRA Module User Guide v. 8.2, at 110-111 (Mar. 2024), available at <https://www.rocis.gov/rocis/viewResources.do> ("A 'common form' is an information collection that can be used by two or more agencies, or government-wide, for the same purpose. The Common Forms Module [in ROCIS] allows a 'host' agency to obtain [OMB] approval of an information collection for use by one or more 'using' agencies. After OMB grants approval, any prospective using agency that seeks to collect identical information for the same

least 15 states; in such a case, it must file a Form ADV-W within 180 days of the adviser's fiscal year end; and (3) for five years after each Form ADV filing, the adviser must maintain in an easily accessible place, a record of the states in which the adviser has determined it would be required to register, but for the exemption in rule 203A-2(d).

The rule's record maintenance requirement (17 CFR 275.203A-2(d)(3)) is a "collection of information" for Paperwork Reduction Act ("PRA") purposes. Rule 203A-2(d)'s requirements concerning Schedule D of Form ADV are included in the PRA burden for Form ADV. The title of the collection of information is "Exemption for Certain Multi-State Investment Advisers (Rule 203A-2(d))." Its currently approved OMB control number is 3235-0689. The collection of information is codified at 17 CFR 275.203A-2(d) and is mandatory to qualify for and maintain Commission registration eligibility under rule 203A-2(d).

Respondents to this collection of information are investment advisers that rely on rule 203A-2(d) to register with the Commission, but would otherwise be prohibited from registering with the Commission. The collection of information is necessary for the Commission staff to use in its examination and oversight program, to help determine an adviser's eligibility for registration with the Commission under rule 203A-2(d). Responses provided to the Commission in the context of its examination and oversight program are generally kept confidential under section 210(b) of the Advisers Act.

We estimate 122 respondents will provide one response each, for an aggregate of 122 annual responses. We estimate an annual time burden of 8 hours per response for an aggregate time burden of 976 hours. We estimate an annual monetized time burden per response of \$3,024 for an aggregate monetized time burden of \$368,928. We estimate \$0 cost burdens.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-016 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by May 14, 2026.

Dated: April 8, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07049 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105173; File No. SR-NYSETEX-2026-05]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt New Rule 5.2(j)(9) To Permit the Generic Listing and Trading of Class Exchange-Traded Fund Shares

April 8, 2026.

On February 12, 2026, NYSE Texas, Inc. ("NYSE Texas" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt new NYSE Texas Rule 5.2(j)(9) to permit the generic listing and trading of Class Exchange-Traded Fund Shares. On February 23, 2026, the Exchange filed Amendment No. 1, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on March 2, 2026.³

On March 4, 2026, the Exchange filed Amendment No. 2, which amended and replaced the proposed rule change, as modified by Amendment No. 1, in its entirety.⁴ The Commission has received no comments regarding the proposed rule change.

The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and to grant approval of the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 104890 (Feb. 25, 2026), 91 FR 10159.

⁴ Amendment No. 2 to the proposed rule change is available on the Commission's website at: <https://www.sec.gov/comments/sr-nysetex-2026-05/srnysetex202605-719128-2251574.pdf>.

I. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

The Exchange proposes to (1) adopt a new Rule 5.2(j)(9) to permit the generic listing and trading of Class Exchange-Traded Fund ("ETF") Shares, and (2) make certain conforming changes to the Exchange's rules to accommodate the proposed listing of Class ETF Shares. This Amendment No. 2 to SR-NYSETEX-2026-05 replaces SR-NYSETEX-2026-05 and Amendment No. 1 thereto as originally filed and supersedes such filings in their entirety.

The proposed rule change is available on the Exchange's website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) adopt a new Rule 5.2(j)(9) to permit the generic listing and trading, or trading pursuant to unlisted trading privileges, of Class ETF Shares, and (2) make certain conforming changes to the Exchange's rules to accommodate the proposed listing of Class ETF Shares.

Consistent with other products (specifically, Investment Company Units listed pursuant to Rule 5.2(j)(3), Managed Fund Shares listed pursuant to Rule 8.600, and ETF Shares listed pursuant to Rule 5.2(j)(8)), Class ETF Shares would be permitted to be listed and traded on the Exchange without prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act.⁵

⁵ Rule 19b-4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") is not deemed a proposed rule change, pursuant to paragraph

As further discussed below, proposed Rule 5.2(j)(9) is based on Rule 5.2–E(j)(9) of the Exchange’s affiliated exchange, NYSE Arca, Inc. (“NYSE Arca”), with only certain non-substantive conforming changes to replace internal references to NYSE Arca rules with references to the corresponding NYSE Texas rules.

Proposed Rule Change

Proposed Rule 5.2(j)(9)(a) would provide that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Class ETF Shares that meet the criteria of the proposed rule.⁶ Proposed Rule 5.2(j)(9)(a) is based on NYSE Arca Rule 5.2–E(a)(j)(9)(a) without any changes.

Proposed Rule 5.2(j)(9)(b), titled “Applicability,” would provide that the proposed rule would be applicable only to Class ETF Shares. Except to the extent inconsistent with proposed Rule 5.2(j)(9), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. Class ETF Shares are included within the definition of “security” or “securities” as such terms

(c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO’s trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. As contemplated by proposed Rule 5.2(j)(9), the Exchange proposes to establish generic listing standards for Class ETF Shares of the ETF Class (as defined herein) that would be required to operate as an ETF pursuant to the Multi-Class Fund Exemptive Relief (as defined herein) and be in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act of 1940 (the “Investment Company Act”), except as noted in the Multi-Class Fund Exemptive Relief. Class ETF Shares listed under proposed Rule 5.2(j)(9) would therefore not need a separate proposed rule change pursuant to Rule 19b–4 before it can be listed and traded on the Exchange.

⁶ To the extent that Class ETF Shares do not satisfy one or more of the criteria in proposed Rule 5.2(j)(9), the Exchange may file a separate proposal under Section 19(b) of the Act in order to list such securities on the Exchange. Any of the statements or representations in that proposal regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in any filing to list such Class ETF Shares shall constitute continued listing requirements for the Class ETF Shares. Further, in the event that Class ETF Shares become listed under proposed Rule 5.2(j)(9) and subsequently can no longer satisfy the requirements of proposed Rule 5.2(j)(9), such Class ETF Shares may be listed as Investment Company Units pursuant to Rule 5.2(j)(3) or Managed Fund Shares under Rule 8.600, as applicable, as long as the Class ETF Shares meet all listing requirements applicable under the alternate listing rule. If the Class ETF Shares do change listing standards, the Exchange would have to comply with all requirements of Rule 19b–4(e) with respect to such Class ETF Shares.

are used in the Rules of the Exchange. Proposed Rule 5.2(j)(9)(b) is based on NYSE Arca Rule 5.2–E(j)(9)(b) without any changes.

Proposed Rule 5.2(j)(9)(c), titled “Definitions,” would set forth the meanings of terms as used in the Rule unless the context otherwise requires. Proposed Rule 5.2(j)(9)(c) is based on NYSE Arca Rule 5.2–E(j)(9)(c) with only non-substantive changes as noted below.

Proposed Rule 5.2(j)(9)(c)(1) would provide that the term “Class ETF Shares” means shares of the ETF Class issued by a Multi-Class Fund. Proposed Rule 5.2(j)(9)(c)(1) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(1) without any changes.

Proposed Rule 5.2(j)(9)(c)(2) would provide that the term “ETF Class” means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act (“Multi-Class Fund Exemptive Relief”), and (ii) is in compliance with the requirements of Rules 5.2(j)(9)(e)(1)(ii) and 5.2(j)(9)(e)(2)(A)(ii) discussed below on an initial and continued listing basis. Proposed Rule 5.2(j)(9)(c)(2) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(2) with only non-substantive changes to update internal references to refer to NYSE Texas rules rather than NYSE Arca rules.

Proposed Rule 5.2(j)(9)(c)(3) would provide that the term “Multi-Class Fund” means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief. Proposed Rule 5.2(j)(9)(c)(3) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(3) without any changes.

Proposed Rule 5.2(j)(9)(c)(4) would provide that the term “Reporting Authority” in respect of a particular Multi-Class Fund means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists Class ETF Shares (if the Exchange is trading such securities pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such Multi-Class Fund, including, but not limited to, the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares, net asset value, index or portfolio value, the current value of the portfolio of securities required to be deposited in

connection with the issuance of Class ETF Shares, or other information relating to the issuance, redemption or trading of Class ETF Shares. A Multi-Class Fund may have more than one Reporting Authority, each having different functions. Proposed Rule 5.2(j)(9)(c)(4) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(4) without any changes.

Proposed Rule 5.2(j)(9)(d), titled “Limitation of Exchange Liability,” would provide that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Multi-Class Fund in connection with the issuance of Class ETF Shares; the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares; net asset value; or other information relating to the purchase, redemption, or trading of Class ETF Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities. Proposed Rule 5.2(j)(9)(d) is based on NYSE Arca Rule 5.2–E(j)(9)(d) without any changes.

Proposed Rule 5.2(j)(9)(e) would provide that the Exchange may approve Class ETF Shares of a Multi-Class Fund for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b–4(e) of the Act. For each listed Class ETF Shares, the ETF Class and the Multi-Class Fund issuing the Class ETF Shares, as applicable, must satisfy the requirements of Rule 5.2(j)(9) upon initial listing and, except for subparagraph (1)(A) of Rule 5.2(j)(9)(e), on a continuing basis. An issuer of such securities must notify the Exchange of any failure to comply with such requirements. Proposed Rule 5.2(j)(9)(e) is based on NYSE Arca Rule 5.2–E(j)(9)(e) with only a non-substantive change to update an internal reference to refer to the NYSE Texas rule rather than the NYSE Arca rule.

Proposed Rule 5.2(j)(9)(e)(1), titled “Initial and Continued Listing,” would provide that Class ETF Shares will be listed and traded on the Exchange provided that: (i) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (ii) the ETF Class is in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule, as applicable, on an initial and continued listing basis. Proposed Rule 5.2(j)(9)(e)(1)(A), titled “Initial Shares Outstanding,” would provide that the Exchange will establish a minimum number of Class ETF Shares required to be outstanding at the time of commencement of trading on the Exchange. Proposed Rules 5.2(j)(9)(e)(1) and 5.2(j)(9)(e)(1)(A) are based on NYSE Arca Rules 5.2–E(j)(9)(e)(1) and 5.2–E(j)(9)(e)(1)(A) without any changes.

Proposed Rule 5.2(j)(9)(e)(2), titled “Suspension of trading or removal,” would provide that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Article 22, Rule 4 of, Class ETF Shares under any of the following circumstances:

- if the Exchange becomes aware that with respect to the Class ETF Shares: (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (ii) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief (proposed Rule 5.2(j)(9)(e)(2)(A));
- if any of the other listing requirements set forth in proposed Rule 5.2(j)(9) are not continuously maintained (proposed Rule 5.2(j)(9)(e)(2)(B));
- if, following the initial twelve-month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of Class ETF Shares (proposed Rule 5.2(j)(9)(e)(2)(C)); or
- if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable (proposed Rule 5.2(j)(9)(e)(2)(D)).

Proposed Rule 5.2(j)(9)(e)(2) and the subparagraphs thereunder are based on

NYSE Arca Rule 5.2–E(j)(9)(e)(2) and its subparagraphs with only non-substantive changes to update internal references to refer to NYSE Texas rules rather than NYSE Arca rules.

Proposed Rule 5.2(j)(9)(f) would provide that transactions in Class ETF Shares will occur during the trading hours specified in Rule 7.34(a).

Proposed Rule 5.2(j)(9)(f) is based on NYSE Arca Rule 5.2–E(j)(9)(f) with only a non-substantive change to update an internal reference to refer to the NYSE Texas rule rather than the NYSE Arca rule.

Proposed Rule 5.2(j)(9)(g), titled “Surveillance Procedures,” would provide that the Exchange will implement and maintain written surveillance procedures for Class ETF Shares. Proposed Rule 5.2(j)(9)(g) is based on NYSE Arca Rule 5.2–E(j)(9)(g) without any changes.

Proposed Rule 5.2(j)(9)(h), titled “Termination,” would provide that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing. Proposed Rule 5.2(j)(9)(h) is based on NYSE Arca Rule 5.2–E(j)(9)(h) without any changes.

The Exchange proposes to add Commentary .01 to proposed Rule 5.2(j)(9). Proposed Commentary .01 to Rule 5.2(j)(9) would provide that the following requirements shall be met by Class ETF Shares on an initial and continued listing basis. Proposed Commentary .01 and the subparagraphs thereunder are based on Commentary .01 to NYSE Arca Rule 5.2–E(j)(9) and its subparagraphs without any changes.

Subsection (a)(1) of proposed Commentary .01 would provide that with respect to Class ETF Shares based on an index, if the underlying index is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser will erect and maintain a “fire wall” around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund adviser.

Subsection (a)(2) of proposed Commentary .01 would provide that any advisory committee, supervisory board, or similar entity that advises a Reporting Authority (as defined in the proposed rule) or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public

information regarding the applicable index.

Subsection (b) of proposed Commentary .01 would provide that with respect to a Multi-Class Fund that is actively managed, if the investment adviser to the Multi-Class Fund issuing Class ETF Shares is affiliated with a broker-dealer, such investment adviser will erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Multi-Class Fund’s portfolio. Further, personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the applicable portfolio. The Reporting Authority that provides information relating to the Multi-Class Fund’s portfolio must also implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of such portfolio.

Proposed Conforming Changes

The Exchange proposes to add Class ETF Shares to the definition of “Derivative Securities Product and UTP Derivative Securities Product” in Rule 1.1(k). This proposed change would align the treatment of Class ETF Shares with how other exchange-traded products are treated under the Exchange’s rules. The proposed changes to Rule 1.1(k) would also align with the inclusion of Class ETF Shares in the definition of “Derivative Securities Product and UTP Derivative Securities Product” in NYSE Arca Rule 1.1.

Discussion

The Exchange will monitor for compliance to ensure that (i) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is in otherwise in compliance with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of Rule 5.2(j)(9), as applicable, on an initial and continuing basis. Specifically, the Exchange will review the website of Class ETF Shares listed on the Exchange in order to ensure that the requirements of Rule 6c–11 are being met. The Exchange will also employ numerous

intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made timely or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 5.2(j)(9) would require an issuer of Class ETF Shares to notify the Exchange of any failure to comply with the requirements of the proposed Rule, the Multi-Class Fund Exemptive Relief, or Rule 6c–11 under the Investment Company Act.

The Exchange may suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.⁷ The Exchange also notes that proposed Rule 5.2(j)(9)(e) requires any issuer to provide the Exchange with prompt notification after it becomes aware that: (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or otherwise no longer complies with, the terms and conditions of, the Multi-Class Fund Exemptive Relief; (ii) the ETF Class is no longer compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; or (iii) the ETF Class or the Multi-Class Fund no longer satisfies the requirements of proposed

Rule 5.2(j)(9), as applicable, on an initial and continuing basis.⁸

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the Class ETF Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Investment Company Units, Managed Fund Shares, and ETF Shares, among other product types, to monitor trading in Class ETF Shares on the Exchange. The Exchange or the Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (“ISG”) or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Class ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access trade information for certain fixed income securities that may be held by a Multi-Class Fund for the Class ETF Shares reported to FINRA’s Trade Reporting and Compliance Engine. FINRA also can access data obtained from the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system relating to municipal bond trading activity for surveillance purposes in connection with trading in Class ETF Shares, to the extent that the Multi-Class Fund for the Class ETF Shares holds municipal securities. Finally, the issuer of Class ETF Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Class ETF Shares.

The Exchange notes that it may consider all relevant factors in exercising its discretion to halt or suspend trading in Class ETF Shares. Trading may be halted if the circuit

breaker parameters in Rule 7.12 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which certain information about the Class ETF Shares that is required to be disclosed under Rule 6c–11 under the Investment Company Act is not being made available, including specifically where the Exchange becomes aware that the net asset value or the daily portfolio disclosure with respect to Class ETF Shares is not disseminated to all market participants at the same time, it will halt trading in such securities until such time as the net asset value or the daily portfolio disclosure is available to all market participants;⁹ (2) if an interruption to the dissemination to the value of the index or reference asset on which Class ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

The Exchange deems Class ETF Shares to be equity securities and therefore they would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.¹⁰

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5),¹² 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

⁷ Specifically, proposed Rule 5.2(j)(9)(e)(1) provides that Class ETF Shares will be listed and traded on the Exchange subject to application of proposed Rule 5.2(j)(9)(e)(2). Proposed Rule 5.2(j)(9)(e)(2) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Article 22, Rule 4 for, Class ETF Shares under any of the following circumstances: (i) if the Exchange becomes aware, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (ii) if any of the other listing requirements set forth in this Rule are not continuously maintained; (iii) if, following the initial twelve-month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of such the Class ETF Shares; or (iv) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 5.2(j)(9)(h) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that Class ETF Shares be removed from Exchange listing.

⁸ The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to proposed Rule 5.2(j)(9)(e) would itself be considered non-compliance with the requirements of Rule 5.2(j)(9) and would subject the Class ETF Shares to potential trading halts and the delisting process under Article 22, Rule 4.

⁹ The Exchange will obtain a representation from the issuer of Class ETF Shares that the net asset value per share will be calculated daily and made available to all market participants at the same time, and the requirements pertaining to the Multi-Class Fund Exemptive Relief and Rule 6c–11 under the Investment Company Act in proposed Rule 5.2(j)(9) will be satisfied.

¹⁰ With respect to trading in Class ETF Shares, the Exchange represents that all ETP Holder obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange’s rules and federal securities laws, and the Exchange will continue to monitor ETP Holders for compliance with such requirements, which are not changing as a result of the Multi-Class Fund Exemptive Relief order issued under the Investment Company Act.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

general to protect investors and the public interest.

The Exchange believes proposed Rule 5.2(j)(9) would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest by establishing generic standards for listing and trading of Class ETF Shares. Proposed Rule 5.2(j)(9) would allow Class ETF Shares that meet the requirements of the Rule to be listed and traded on the Exchange without prior Commission approval or notice of effectiveness pursuant to Section 19(b) of the Act. Accordingly, the proposed rule change would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest because it would facilitate efficient procedures for listing Class ETF Shares that meet the requirements of proposed Rule 5.2(j)(9), thereby reducing the time, resources, and costs associated with bringing new series of Class ETF Shares to market and promoting competition among issuers of such products, to the benefit of the market participants. In addition, the Exchange believes that the proposed rule change would further the intended objective of Rule 19b-4(e) under the Act by permitting Class ETF Shares that satisfy the proposed listing standards in proposed Rule 5.2(j)(9) to be listed and traded without separate Commission approval.

The Exchange further believes that the proposed changes would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest because the proposed rules are based on the rules of the Exchange's affiliated market, NYSE Arca, which rules have been approved by the Commission. Accordingly, the proposed rule changes would facilitate the Exchange's ability to list and trade Class ETF Shares under generic listing standards identical to NYSE Arca's. The Exchange also believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting consistency across the rules of affiliated exchanges.

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. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of Class ETF Shares through an efficient process that would enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that the proposed generic listing standards in Rule 5.2(j)(9) would reduce the timeframe for bringing additional series of Class ETF Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition among issuers of such products.

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. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 11A(a)(1)(C)(iii) of the Act, which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.¹⁵ In addition, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(1)

of the Act,¹⁶ which requires, among other things, that the Exchange is so organized and has the capacity to be able to enforce compliance by its members and persons associated with its members with the rules of the Exchange.

The Exchange proposes to adopt new NYSE Texas Rule 5.2(j)(9) to permit the generic listing and trading, or trading pursuant to unlisted trading privileges, of Class ETF Shares in connection with the Multi-Class Fund Exemptive Relief granted by order under the Investment Company Act.¹⁷ Under the proposal and pursuant to the Multi-Class Fund Exemptive Relief, a Multi-Class Fund is permitted to issue a class of shares that are exchange-traded (*i.e.*, ETF Class) and one or more classes of shares that are not exchange-traded. In accordance with the Multi-Class Fund Exemptive Relief, the ETF Class operates as an ETF in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in the Multi-Class Fund Exemptive Relief. The Exchange also proposes to make conforming changes to the Exchange's definitions under NYSE Texas Rule 1.1 to accommodate the proposed listing and trading of Class ETF Shares.

A. Consistency With Section 6(b)(5) of the Act

(1) Proposed NYSE Texas Rule 5.2(j)(9)

Proposed NYSE Texas Rule 5.2(j)(9) is substantively identical to the Class ETF Shares listing standards of other exchanges, and in particular, to the Class ETF Shares listing standards in NYSE Arca Rule 5.2-E(j)(9).¹⁸ In approving the Class ETF Shares generic listing standards for the other exchanges, the Commission determined that the rules to permit the generic listing and trading of Class ETF Shares were reasonably designed to help prevent fraudulent and manipulative acts and practices.¹⁹ Because proposed NYSE Texas Rule 5.2(j)(9) is based on, and is substantively identical to, the same listing standards for Class ETF

¹⁶ 15 U.S.C. 78f(b)(1).

¹⁷ See *supra* note 5.

¹⁸ See Securities Exchange Act Release No. 104251 (Nov. 24, 2025), 90 FR 54815 (Nov. 28, 2025) (SR-NYSEARCA-2025-39) (order approving Class ETF Shares generic listing standards for NYSE Arca). See also Securities Exchange Act Release No. 104252 (Nov. 24, 2025), 90 FR 54781 (Nov. 28, 2025) (SR-NASDAQ-2025-037) (order approving Class ETF Shares generic listing standards for The Nasdaq Stock Market LLC); and Securities Exchange Act Release No. 104247 (Nov. 24, 2025), 90 FR 54796 (Nov. 28, 2025) (SR-CboeBZX-2025-076) (order approving Class ETF Shares generic listing standards for Cboe BZX Exchange, Inc.).

¹⁹ See *id.*

¹³ In approving this proposed rule change, as modified by Amendment No. 2, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ See 15 U.S.C. 78k-1(a)(1)(C)(iii).

Shares of other exchanges, the Commission similarly concludes that proposed NYSE Texas Rule 5.2(j)(9) is reasonably designed to help prevent fraudulent and manipulative acts and practices.

Proposed NYSE Texas Rule 5.2(j)(9)(g) requires that the Exchange implement and maintain written surveillance procedures for Class ETF Shares. The Exchange represents that it will utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to ETF Shares, among other product types, to monitor trading in Class ETF Shares, and further represents that its surveillance procedures are adequate to (a) properly monitor the trading of the Class ETF Shares during all trading sessions and (b) deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange also represents that the Exchange, or FINRA on behalf of the Exchange, will communicate or obtain information, as needed, regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by the Multi-Class Fund for the Class ETF Shares reported to TRACE. FINRA also can access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in Class ETF Shares, to the extent that the Multi-Class Fund for the Class ETF Shares holds municipal securities. The Exchange states that NYSE Texas Rule 5.2(j)(9)(e) requires any issuer to provide the Exchange with prompt notification after it becomes aware that (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or otherwise no longer complies with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class is no longer compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, or (iii) the ETF Class or the Multi-Class Fund no longer satisfies the requirements of NYSE Texas Rule 5.2(j)(9), as applicable, on an initial and continuing basis.²⁰ The Exchange further represents that it will obtain a representation from the issuer of Class ETF Shares stating that the

requirements of Rule 6c–11 and the applicable exemptive relief under the Investment Company Act will be continuously satisfied and that the issuer will notify the Exchange of any failure to do so.

Consistent with the requirements of Section 6(b)(5) of the Act²¹ that the Exchange's rules be designed to remove impediments to, and perfect the mechanism of, a free and open market, the Exchange's rules regarding trading halts will help to ensure the maintenance of fair and orderly markets for Class ETF Shares. Specifically, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in Class ETF Shares. The Exchange states that trading in Class ETF Shares may be halted if the circuit breaker parameters in NYSE Texas Rule 7.12 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Class ETF Shares inadvisable. According to the Exchange, the reasons to halt trading may include: (1) the extent to which certain information about the Class ETF Shares that is required to be disclosed pursuant to Rule 6c–11 under the Investment Company Act is not being made available;²² (2) if an interruption to the dissemination to the value of the index or reference asset on which the Class ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. As the Exchange further represents in the proposal, if the Exchange becomes aware that the net asset value or the daily portfolio disclosure with respect to the Class ETF Shares is not disseminated to all market participants at the same time, it will halt trading in the Class ETF Shares until such time as the net asset value or the daily portfolio disclosure is available to all market participants.²³ The Exchange represents that it may suspend trading in and commence delisting proceedings for Class ETF Shares where such

securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.²⁴

The Commission also finds that, consistent with Section 11A(a)(1)(C)(iii) of the Act,²⁵ the proposed rule change, as modified by Amendment No. 2, is reasonably designed to promote fair disclosure of information that may be necessary to price the Class ETF Shares appropriately, to prevent trading when a reasonable degree of transparency cannot be assured, to safeguard material non-public information relating to the Class ETF Shares, and to ensure fair and orderly markets for Class ETF Shares.

(2) Other Related Proposed Rule Changes

The Exchange also proposes changes to accommodate Class ETF Shares in other Exchange rules. First, the Exchange proposes to add Class ETF Shares to the definition of "Derivative Securities Product and UTP Derivative Securities Product" in NYSE Texas Rule 1.1(k). These proposed changes incorporate proposed NYSE Texas Rule 5.2(j)(9) into the existing framework of the Exchange's rules, and therefore the Commission finds that such changes are consistent with Section 6(b)(5) of the Act.

B. Consistency With Section 6(b)(1) of the Act

The Commission also finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(1) of the Act,²⁶ which requires, among other things, that the Exchange is so organized and has the capacity to be able to enforce compliance by its members and persons associated with its members with the rules of the Exchange. The Exchange represents that, consistent with Section 6(b)(1) of the Act,²⁷ it will monitor for compliance to ensure that: (1) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an ETF pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (2) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (3) the ETF Class and the Multi-Class Fund each satisfies the requirements of proposed

²¹ 15 U.S.C. 78f(b)(5).

²² See *supra* note 9 and accompanying text (the Exchange represents that it will obtain a representation from the issuer of Class ETF Shares that the net asset value per share will be calculated daily and made available to all market participants at the same time, and the requirements pertaining to the Multi-Class Fund Exemptive Relief and Rule 6c–11 under the Investment Company Act in proposed NYSE Texas Rule 5.2(j)(9) will be satisfied).

²³ See *id.*

²⁴ See *supra* note 7 and accompanying text.

²⁵ See *supra* note 15 and accompanying text.

²⁶ 15 U.S.C. 78f(b)(1).

²⁷ *Id.*

²⁰ See *supra* note 7 and accompanying text.

NYSE Texas Rule 5.2(j)(9), as applicable, on an initial and continued listing basis. In addition, the Exchange represents that it will review the website of the Class ETF Shares listed on the Exchange to ensure that the requirements of Rule 6c–11 under the Investment Company Act are being met and will obtain a representation from the issuer of the Class ETF Shares that the requirements of Rule 6c–11 and the applicable exemptive relief under the Investment Company Act will be continuously satisfied, and that the issuer will notify the Exchange of any failure to do so. The Exchange also represents that it will comply with all the requirements of Rule 19b–4(e) under the Act to specifically note that such Class ETF Shares are being listed and/or traded on the Exchange pursuant to NYSE Texas Rule 5.2(j)(9).²⁸

The Exchange states that it will employ numerous intraday alerts to notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. The Exchange also states that proposed NYSE Texas Rule 5.2(j)(9)(e) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed NYSE Texas Rule 5.2(j)(9), which would include any failure of the issuer to comply with Rule 6c–11 under the Investment Company Act or with the terms and conditions of the Multi-Class Fund Exemptive Relief.²⁹ Further, proposed NYSE Texas Rule 5.2(j)(9)(e)(2)(C) requires that the Exchange consider the suspension of trading in, and commence delisting proceedings for, Class ETF Shares if, following the initial 12-month period after commencement of trading on the Exchange, there are fewer than 50 beneficial holders of the Class ETF

Shares.³⁰ Finally, the Exchange deems Class ETF Shares to be equity securities and represents, therefore, that such Class ETF Shares would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.³¹ The Exchange states that Class ETF Shares will be subject to rules governing Exchange member disclosure obligations in connection with equities trading, and that Rule 6c–11 under the Investment Company Act does not change the applicability of these Exchange rules with respect to these securities.³²

This approval order is based on all of the Exchange's representations and descriptions in the proposed rule change, including those set forth above and in Amendment No. 2, which the Commission has carefully evaluated as discussed above. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(1) and 6(b)(5) of the Act³³ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 2, 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–NYSETEX–2026–05 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.

²⁸ Rule 19b–4(e) under the Act requires an SRO seeking to rely on Rule 19b–4(e) to post on its publicly available internet website within five business days after commencement of trading a new derivative securities product the following information relating to the new derivative securities product, using the most recent versions of the XML schema and the associated PDF renderer as published on the Commission's website: (A) type of issuer; (B) class; (C) name of underlying instrument; (D) if the underlying instrument is an index, whether it is broad-based or narrow-based; (E) ticker symbol(s); (F) market(s) upon which securities composing the underlying instrument trade; (G) settlement methodology; and (H) position limits (if applicable). See 17 CFR 240.19b–4(e)(2)(ii). See also *supra* notes 5 and 6 and respective accompanying text.

²⁹ See *supra* note 8 and accompanying text.

³⁰ See proposed NYSE Texas Rule 5.2(j)(9)(e).

³¹ See proposed NYSE Texas Rule 5.2(j)(9)(e)(2)(C).

³² As stated above, with respect to trading in Class ETF Shares, the Exchange represents that all ETP Holder obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange's rules and federal securities laws, and the Exchange will continue to monitor ETP Holders for compliance with such requirements, which are not changing as a result of the Multi-Class Fund Exemptive Relief order issued under the Investment Company Act. See *supra* note 10 and accompanying text.

³³ 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78f(b)(5), respectively.

All submissions should refer to file number SR–NYSETEX–2026–05. 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–NYSETEX–2026–05 and should be submitted on or before May 4, 2026.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the 30th day after the date of publication of Amendment No. 2 in the *Federal Register*. In Amendment No. 2, the Exchange provided additional information in support of the proposal, including representations regarding NYSE Texas's ability to monitor for compliance of proposed NYSE Texas Rule 5.2(j)(9) and the specific requirements set forth therein, the procedures for suspensions in trading of, and delisting procedures for, Class ETF Shares, the applicable trading rules for Class ETF Shares, and the Exchange's surveillance procedures. The additional information in Amendment No. 2 is substantially similar to the information provided by other exchanges that adopted the same generic listing standards for Class ETF Shares.³⁴ The proposal, as modified by Amendment No. 1, has been subject to public comment, and no comments have been received.

The Commission finds that Amendment No. 2 to the proposed rule change raises no novel regulatory issues that have not previously been subject to comment, and is reasonably designed, among other things, to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that Amendment No. 2 to the proposed rule change is

³⁴ See *supra* note 18 and accompanying text.

consistent with Section 11A(a)(1)(C)(iii) of the Act.³⁵ Accordingly, pursuant to Section 19(b)(2) of the Act,³⁶ the Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁷ that the proposed rule change (SR-NYSETEX-2026-05), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07036 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0550]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Securities Act Rule 477

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 477 (17 CFR 230.477) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) sets forth procedures for withdrawing a registration statement, including any amendments or exhibits to the registration statement. The rule provides that a registrant must sign any application for withdrawal and must state fully in it the grounds on which the registrant makes the application. The rule further provides that the registrant must state in the application that no securities were sold in connection with the offering. Rule 477’s information collection requirements help to ensure that the Commission has sufficient information regarding a

registrant’s application to withdraw a registration statement to determine whether to grant such application (based on whether such withdrawal is consistent with the public interest and the protection of investors). The information required by Rule 477 is mandatory and is publicly available on the Commission’s Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system. We estimate that approximately 548 registrants file a withdrawal application under Rule 477, once per year each, for a total estimate of 548 responses annually. We estimate that Rule 477 requires one burden hour per response for a total annual burden of approximately 548 hours. We estimate that registrants carry 100% of the burdens associated with Rule 477 internally and, therefore, that there is no cost burden associated with Rule 477.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-006 or send an email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by May 14, 2026.

Dated: April 8, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07047 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105179; File No. SR-MIAX-2026-12]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIA Options Exchange Fee Schedule To Amend Non-Transaction Fees

April 8, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 25, 2026, Miami International Securities Exchange, LLC (“MIA” or “Exchange”) filed with the Securities and Exchange Commission

(“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIA Options Exchange Fee Schedule (the “Fee Schedule”) to update various non-transaction fees that have not been changed in a number of years to be comparable to fees charged by other like exchanges for similar products.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings> and at MIA’s principal office.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange first launched operations in December 2012 to attract order flow and encourage market participants to experience the high determinism and resiliency of the Exchange’s trading Systems.³ To do so, the Exchange took a pragmatic and thoughtful approach to each fee proposal to encourage and increase participation in its marketplace while being mindful of fee levels charged by other exchanges for similar products and services. The Exchange now proposes to amend various fees for non-transaction related services to be in line with those of other options exchanges and enable it to continue to effectively compete with other exchanges who charge higher non-transaction fees and

³⁵ See *supra* note 25 and accompanying text.

³⁶ 15 U.S.C. 78s(b)(2).

³⁷ *Id.*

³⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

generate greater revenue. This proposal simply seeks to increase certain fees to reflect current market rates. The Exchange notes that significant portion of the fees for non-transaction related services that are the subject of this filing have not been increased since 2015.

Specifically, the Exchange proposes to amend the Fee Schedule to amend the following non-transaction fees: (1) monthly Trading Permit⁴ fees applicable to Electronic Exchange Members (“EEMs”)⁵ and Market Makers;⁶ (2) connectivity fees to the primary/secondary facility and disaster recovery facility for Members⁷ and non-Members; and (3) FIX,⁸ MEI,⁹ Purge,¹⁰ and FXD¹¹ Port fees.¹²

⁴ The term “Trading Permit” means a permit issued by the Exchange that confers the ability to transact on the Exchange. *See* Exchange Rule 100.

⁵ The term “Electronic Exchange Member” or “EEM” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act. *See* Exchange Rule 100.

⁶ The term “Market Makers” refers to “Lead Market Makers,” “Primary Lead Market Makers,” and “Registered Market Makers” collectively. *See* Exchange Rule 100.

⁷ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. *See* Exchange Rule 100.

⁸ A FIX Port is an interface with MIAx systems that enables the Port user (typically an Electronic Exchange Member or a Market Maker) to submit simple and complex orders electronically to MIAx. *See* Fee Schedule, Section 5(d), footnote 24.

⁹ MIAx Express Interface is a connection to MIAx systems that enables Market Makers to submit simple and complex electronic quotes to MIAx. *See* Fee Schedule, Section 5(d), footnote 26. Full Service MEI Ports provide Market Makers with the ability to send Market Maker simple and complex quotes, eQuotes, and quote purge messages to the MIAx System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine. *See* Fee Schedule, Section 5(d), footnote 27. Limited Service MEI Ports provide Market Makers with the ability to send simple and complex eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAx System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers initially receive four Limited Service MEI Ports per matching engine. *See* Fee Schedule, Section 5(d), footnote 28.

¹⁰ Purge Ports provide Market Makers with the ability to send quote purge messages to the MIAx System. Purge Ports are not capable of sending or receiving any other type of messages or information. *See* Fee Schedule, Section 5(d), footnote 30.

¹¹ The FIX Drop Copy Port (“FXD”) is a messaging interface that will provide a copy of real-time trade execution, trade correction and trade cancellation information for simple and complex orders to FIX Drop Copy Port users who subscribe to the service. FIX Drop Copy Port users are those users who are designated by an EEM to receive the information and the information is restricted for use by the EEM only. FXD Port Fees will be assessed in any month the Member is credentialed to use the FXD Port in the production environment. *See* Fee Schedule, Section 5(d)iv).

¹² The Exchange initially filed this proposal on December 31, 2025. *See* Securities Exchange Act

Monthly Trading Permit Fees

The Exchange proposes to amend the Fee Schedule to amend the amount of the monthly Trading Permit fees assessed to EEMs and Market Makers.

EEMs

The Exchange notes that Trading Permit fees for EEMs have not been amended since January 1, 2015.¹³ The Exchange assesses a flat monthly fee of \$1,500 per Trading Permit to each EEM. The Exchange now proposes to increase the monthly Trading Permit fee assessed to EEMs from \$1,500 to \$2,000.

Market Makers

The monthly Trading Permit fees for Market Makers have not been amended since May 1, 2015.¹⁴ Currently, the Exchange assesses monthly Trading Permit fees to Market Makers based on the lesser of either the per class basis or percentage of total national average daily volume (“ADV”) measurements. The amount of the monthly Trading Permit fee is based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon class volume percentages. The Exchange will assess MIAx Market Makers the monthly Trading Permit fee based on the greatest number of classes listed on MIAx that the Market Maker was assigned to quote in on any given day within a calendar month.¹⁵ The class volume percentage is based on the total national ADV in classes listed on MIAx in the prior calendar quarter. Newly

Release No. 104589 (January 13, 2026), 91 FR 2195 (January 16, 2026) (SR-MIAx-2025-50). On January 30, 2026, the Exchange withdrew SR-MIAx-2025-50 and refiled this proposal. *See* Securities Exchange Act Release No. 104836 (February 12, 2026), 91 FR 7549 (February 18, 2026) (SR-MIAx-2026-07). On March 25, 2026, the Exchange withdrew SR-MIAx-2026-07 and refiled this proposal.

¹³ *See* Securities Exchange Act Release No. 73957 (December 30, 2014), 80 FR 593 (January 6, 2015) (SR-MIAx-2014-68).

¹⁴ *See* Securities Exchange Act Release No. 74856 (May 1, 2015), 80 FR 26304 (May 7, 2015) (SR-MIAx-2015-31). The Exchange notes that in 2018 the Exchange filed to establish a lower Trading Permit fee rate for Market Makers that were willing to quote the entire Exchange market (or a substantial amount of the Exchange market), as objectively measure by either the number of classes assigned or national average daily volume, but who did not otherwise execute a significant amount of volume on the Exchange. *See* Securities Exchange Act Release No. 82868 (March 13, 2018), 83 FR 12063 (March 19, 2018) (SR-MIAx-2018-08); *see, generally*, Fee Schedule, Section 3(b), footnote “*”. However, the standard monthly Trading Permit fee rates have remained unchanged since 2015.

¹⁵ Pursuant to Exchange Rule 602(a), the Board or a committee designated by the Board shall appoint Market Makers to one or more classes of option contracts traded on the Exchange based on several factors described in the Rule in the best interest of the Exchange to provide competitive markets.

listed option classes are excluded from the calculation of the monthly Trading Permit fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume.

Currently, the Exchange assess the following Trading Permit fees to Market Makers:

- \$7,000 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$12,000 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$17,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and

- \$22,000 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAx.

The Exchange also assesses an alternative lower Trading Permit fee to Market Makers who fall within the 3rd and 4th levels of the Market Maker Trading Permit fee table, which levels are described immediately above, if certain volume thresholds are met. This alternative lower Trading Permit fee for Market Makers is set forth in footnote “*” that is included in the Market Maker Trading Permit fee table and provides that if the Market Maker’s total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAx-listed option classes for that month, then the fee will be \$15,500 instead of the fee otherwise applicable to such level.

The Exchange now proposes to increase the Trading Permit fees assessed to Market Makers, which, as described above, were last amended over ten years ago in May 2015. In particular, the Exchange proposes to assess the following Trading Permit fees to Market Makers:

- \$9,500 for Market Maker registrations in up to 10 option classes or up to 20% of option classes by national ADV;
- \$16,000 for Market Maker registrations in up to 40 option classes or up to 35% of option classes by ADV;
- \$23,000 for Market Maker registrations in up to 100 option classes or up to 50% of option classes by ADV; and
- \$29,500 for Market Maker registrations in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAx.

The Exchange also proposes to increase the alternative lower Trading Permit fee to Market Makers who fall within the 3rd and 4th levels of the Market Maker Trading Permit fee table, if certain volume thresholds are met, from \$15,500 to \$16,000 per month by amending the footnote “*” following the Market Maker Trading Permit fee table for these monthly Trading Permit tier levels.

System Connectivity Fees

1Gb and 10Gb Network Connectivity Fees

Next, the Exchange proposes to amend the Fee Schedule to increase connectivity fees to the primary/secondary and disaster recovery facilities for Members and non-Members. Currently, the Exchange assesses the same amount of connectivity fees to Members and non-Members that connect to the Exchange’s primary/secondary facility and disaster recovery facility. In particular, the Exchange assesses the following connectivity fees to Members and non-Members:

- \$1,400 per 1 gigabit (“Gb”) connection to the primary/secondary facility;
- \$550 per 1Gb connection to the disaster recovery facility;
- \$2,750 per 10Gb connection to the disaster recovery facility; and
- \$13,500 per 10Gb ultra-low latency (“ULL”) connection to the primary/secondary facility.

The Exchange notes that the above fees for 1Gb connectivity and 10Gb to the disaster recovery facility, and 1Gb connectivity to the primary/secondary facilities, have not been increased since December 2019.¹⁶ The fee for 10Gb ULL connectivity was last increased in January 2023.¹⁷ The Exchange now propose to amend Sections 5(a)–(b) of the Fee Schedule to increase connectivity fees for Members and non-Members. In particular, the Exchange proposes to assess the following connectivity fees to Members and non-Members:

- \$1,500 per 1Gb connection to the primary/secondary facility;

- \$650 per 1Gb connection to the disaster recovery facility;
- \$3,500 per 10Gb connection to the disaster recovery facility; and
- \$15,000 per 10Gb ULL connection to the primary/secondary facility.

Port Fees

The Exchange proposes to amend the fees for FIX Ports, Full Service MEI Ports, Limited Service MEI Ports, Purge Ports, and FXD Ports. Some of these fees have not been increased since they were first adopted in 2015. Each port provides access to the Exchange’s primary and secondary data centers as well as its disaster recovery center for a single fee.

FIX Ports

The Exchange proposes to amend the fees for FIX Ports, which have not been increased since January 2017. A FIX Port allows Members to submit simple and complex orders electronically to MIAx.¹⁸ The Exchange currently assesses the following monthly FIX Port fees:

- \$550 for the first FIX Port;
- \$350 per port for the second to fifth FIX Ports; and
- \$150 per port for the sixth or more FIX Ports.¹⁹

The Exchange proposes to increase monthly FIX Port fees as follows:

- \$700 for the first FIX Port;
- \$450 per port for the second to fifth FIX Ports; and
- \$200 per port for the sixth or more FIX Ports.

Full Service MEI Ports

The Exchange proposes to amend the Full Service MEI Port fees for Market Makers, which have not been increased since June 1, 2015.²⁰ Full Service MEI Ports provide Market Makers with the ability to send Market Maker simple and complex quotes, eQuotes, and quote purge messages to the MIAx System. Full Service MEI Ports are also capable of receiving administrative information.²¹

The Exchange assesses the amount of the monthly Full Service MEI Port fees for Market Makers based on the lesser of either the per class basis or percentage of total national ADV measurements. The amount of the monthly Full Service MEI Port fee is based upon the number

of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon class volume percentages. The Exchange assesses Market Makers the monthly Full Service MEI Port fee based on the greatest number of classes listed on MIAx that the Market Maker was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national ADV in classes listed on MIAx in the prior calendar quarter. Newly listed option classes are excluded from the calculation of the monthly Full Service MEI Port fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume. Specifically, the Exchange assesses the following Full Service MEI Port fees to Market Makers:

- \$5,000 for Market Maker assignments in up to 5 option classes or up to 10% of option classes by national ADV;
- \$10,000 for Market Maker assignments in up to 10 option classes or up to 20% of option classes by ADV;
- \$14,000 for Market Maker assignments in up to 40 option classes or up to 35% of option classes by national ADV;
- \$17,500 for Market Maker assignments in up to 100 option classes or up to 50% of option classes by ADV; and
- \$20,500 for Market Maker assignments in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAx.

The Exchange also provides an alternative lower Full Service MEI Port fee for Market Makers who fall within the 4th and 5th levels of the Market Maker Full Service MEI Port fee table, which levels are described directly above, if certain volume thresholds are met. This alternative lower Full Service MEI Port fee for Market Makers is set forth in footnote “*” in the Market Maker Full Service MEI Port fee table and provides that if the Market Maker’s total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAx-listed option classes for that month, then the fee will be \$14,500 instead of the fee otherwise applicable to such level.

The Exchange now proposes to increase the Full Service MEI Port fees assessed to Market Makers as follows:

¹⁶ See Securities Exchange Act Release No. 87875 (December 31, 2019), 85 FR 770 (January 7, 2020) (SR-MIAx-2019-51).

¹⁷ See Securities Exchange Act Release Nos. 96629 (January 10, 2023), 88 FR 2729 (January 17, 2023) (SR-MIAx-2022-50) and 99822 (March 21, 2024), 89 FR 21337 (March 27, 2024) (SR-MIAx-2024-16) (noting that while the proposed fee changes subject to this filing were immediately effective, the proposed fee changes had been effective since January 1, 2023 pursuant to the Exchange’s initially filed proposal on December 30, 2022 (*i.e.*, SR-MIAx-2022-50)).

¹⁸ See *supra* note 8.

¹⁹ Each FIX Port provides access to all matching engines. See Fee Schedule, Section 5(d), note “^”.

²⁰ See Securities Exchange Act Release No. 75140 (June 10, 2015), 80 FR 34480 (June 16, 2015) (SR-MIAx-2015-37).

²¹ See *supra* note 9.

- \$6,500 for Market Maker assignments in up to 5 option classes or up to 10% of option classes by national ADV;

- \$13,500 for Market Maker assignments in up to 10 option classes or up to 20% of option classes by ADV;

- \$19,000 for Market Maker assignments in up to 40 option classes or up to 35% of option classes by national ADV;

- \$23,500 for Market Maker assignments in up to 100 option classes or up to 50% of option classes by ADV; and

- \$27,500 for Market Maker assignments in over 100 option classes or over 50% of option classes by ADV up to all option classes listed on MIAX.

The Exchange also proposes to decrease the alternative lower Full Service MEI Port fee for Market Makers who fall within the 3rd, 4th and 5th levels of the proposed Market Maker Full Service MEI Port fee table, if certain volume thresholds are met, from \$14,500 to \$13,500 per month by amending footnote “*” following the Market Maker Full Service MEI Port fee table.

Limited Service MEI Ports

The Exchange proposes to amend the fees for Limited Service MEI Ports, which provide Market Makers with the ability to send simple and complex eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAX System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers currently receive four free Limited Service MEI Ports per matching engine.²² Currently, Market Makers may request additional Limited Service MEI Ports for which MIAX will assess Market Makers \$275 per month per

additional Limited Service MEI Port for each matching engine. The Exchange proposes to increase the fee for each additional Limited Service MEI Port from \$275 to \$350 per month per additional Limited Service MEI Port for each matching engine.

Purge Ports

The Exchange proposes to amend the fees for Purge Ports, which provide Market Makers with the ability to send quote purge messages to the MIAX System. Purge Ports are not capable of sending or receiving any other type of messages or information.²³ The Exchange proposes to increase the monthly Purge Port fee from \$300 per matching engine to \$400 per matching engine.²⁴

FXD Ports

The Exchange proposes to amend the fees for FXD Ports, which have not been increased since they were first adopted in September 2015.²⁵ A FXD Port means a messaging interface that will provide a copy of real-time trade execution, trade correction and trade cancellation information for simple and complex orders to FIX Drop Copy Port users who subscribe to the service. FXD Port Fees will be assessed in any month the Member is credentialed to use the FXD Port in the production environment.²⁶ The Exchange now proposes to increase the monthly fee per FXD Port from \$500 to \$675.²⁷

Implementation

The Exchange issued an alert publicly announcing the proposed fees on October 14, 2025 and a reminder alert on December 19, 2025.²⁸ The fees subject to this proposal are immediately effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)²⁹ of the Act in general, and furthers the objectives of Section 6(b)(4)³⁰ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5)³¹ of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposed Fees Are Reasonable and Comparable to the Fees Charged by Other Exchanges for Similar Products and Services

Overall. The proposed fees are comparable to those of other options exchanges. The Exchange compared the fees proposed herein to the fees charged by other options exchanges for similar products or services. A more detailed discussion of the comparison follows.³²

EEM Trading Permit Fees

The proposed Trading Permit fee for EEMs are lower than the trading permit fees charged by Cboe Exchange, Inc. (“Cboe”), as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX	EEM Trading Permit	\$2,000
Cboe ^a	Electronic Access Permit	3,000

^a See Cboe Fee Schedule, Electronic Trading Permit Fees section, page 6, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf.

Cboe. Cboe charges higher trading permit fees than the Trading Permit fees

proposed by the Exchange for EEMs. Cboe’s Electronic Access Permit is

analogous to the Exchange’s Trading Permits for EEMs. In general, a Trading

²² See *supra* note 9.

²³ See *supra* note 10.

²⁴ A Market Maker may request and be allocated two (2) Purge Ports per matching engine to which it connects via a Full Service MEI Port and will be charged the monthly fee per Matching Engine. See Fee Schedule, Section 5(d)ii).

²⁵ See Securities Exchange Act Release No. 75735 (August 19, 2015), 80 FR 51641 (August 25, 2015) (SR-MIAX-2015-52).

²⁶ See *supra* note 11.

²⁷ Each FXD Port provides access to all matching engines. See Fee Schedule, Section 5(d)iv), footnote 31.

²⁸ See Fee Change Alert, MIAX Options, Pearl Options and Emerald Options—January 1, 2026 Non-Transaction Fee Changes (dated October 14, 2025), available at <https://www.miaxglobal.com/alert/2025/10/14/miax-options-pearl-options-and-emerald-options-exchanges-january-1-2026-non-1?nav=all> and Fee Change Alert, MIAX Options, Pearl Options and Emerald Options Exchanges—Reminder: January 1, 2026 Non-Transaction Fee

Changes (dated December 19, 2025), available at <https://www.miaxglobal.com/alert/2025/12/19/miax-options-pearl-options-and-emerald-options-exchanges-reminder-january-1-1?nav=all>.

²⁹ 15 U.S.C. 78f.

³⁰ 15 U.S.C. 78f(b)(4).

³¹ 15 U.S.C. 78f(b)(5).

³² The fee amounts listed in each table provided in the Statutory Basis section of this filing that pertain to the Exchange are the proposed new rates for each product or service.

Permit is a permit issued by the Exchange that confers the ability to transact on the Exchange.³³ EEMs are assessed the monthly Trading Permit fee in order to transact on the Exchange on behalf of their customers or to conduct proprietary trading. Likewise, Cboe's Electronic Access Permits entitle the holder to access Cboe.³⁴ Like Trading Permit Holders on the Exchange,

Electronic Access Permit holders must be broker-dealers registered with Cboe and are allowed to transact on Cboe.³⁵

Cboe charges a higher trading permit fee for Electronic Access Permits than the Trading Permit fee proposed by the Exchange for EEMs. Cboe charges a flat \$3,000 per Electronic Access Permit per month, while the Exchange proposes to charge a flat \$2,000 per EEM Trading

Permit per month, lower than Cboe's flat \$3,000 fee.

Market Maker Trading Permit Fees

The proposed Trading Permit³⁶ fees for Market Makers are similar to the Trading Permit fees charged by NYSE American LLC ("NYSE American"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee		
MIAX	Market Maker Trading Permit	\$9,500	Up to 10 Classes.	Up to 20% of Classes by volume (as a % of national ADV).
		16,000	Up to 40 Classes.	Up to 35% of Classes by volume (as a % of national ADV).
		23,000	Up to 100 Classes.	Up to 50% of Classes by volume (as a % of national ADV).
		29,500	Over 100 Classes.	Over 50% of Classes by volume up to all Classes on MIAX Options (as a % of national ADV).
NYSE American ^a	Options Market Maker ATPs	\$8,000	1st ATP: 60 issues plus bottom 45%	
		6,000	2nd ATP: 150 issues plus bottom 45%	
		5,000	3rd ATP: 500 issues plus bottom 45%	
		4,000	4th ATP: 1,100 issues plus bottom 45%	
		3,000	5th ATP: all issues traded	
		2,000	6th to 9th ATP: all issues traded	
500	10th or more ATPs: all issues traded			

^a See NYSE American Options Fee Schedule, Section III.A., available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

NYSE American. NYSE American charges similar trading permit fees for its market makers as the Trading Permit fees proposed by the Exchange for its Market Makers. In general, a Trading Permit is a permit issued by the Exchange that confers the ability to transact on the Exchange.³⁷ Each registered Market Maker is assessed a monthly Trading Permit fee in order to appoint a qualified person (or persons) to act as a Registered Option Trader ("ROT")³⁸ pursuant to the Exchange's Rules and fulfill the Market Maker's obligations to act as a specialist on the Exchange.³⁹ The Exchange assesses Trading Permit fees based on the lesser of either the per class basis or percentage of total national average

daily volume measurement. A "class" of options means all option contracts covering the same underlying security.⁴⁰ NYSE American's market maker ATP⁴¹ fee is analogous to the Exchange's Trading Permit fees for Market Makers, which is a monthly fee in order to transact on NYSE American for the purpose of making markets in options contracts.⁴² NYSE American assesses its ATP fees based on the number of issues⁴³ in their appointment. The Exchange and NYSE American provide for different numbers of option classes included in each tier of their respective trading permit fee structures due to their own business and competitive reasons. The Exchange provides fewer options class

assignments for each Trading Permit tier because it believes this structure best represents the Market Makers that trade on the Exchange. NYSE American, on the other hand, provides significantly more "issues" or options classes in each ATP tier in order to "properly [incentivize] Market Makers to quote in a broad range of options, including less liquid and active names. . ."⁴⁴

NYSE American charges similar trading permit fees to its ATPs as proposed by the Exchange herein for the Exchange's Market Makers. NYSE American charges all Options Market Makers⁴⁵ tiered trading permit fees

³³ See Exchange Rule 100.

³⁴ See Cboe Fee Schedule, Electronic Trading Permit Fees section, page 6, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf. The Exchange notes that Cboe differentiates between electronic access permits for clearing firms and electronic exchange member firms and charges a trading permit fee of \$2,000 per month for Clearing TPH Permits, which is the same rate for a Trading Permit as proposed by the Exchange for EEMs that act as Clearing Members. See *id.* The term "Clearing Member" means a Member that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the rules of the Clearing Corporation. See Exchange Rule 100. The term "Clearing Corporation" means The Options Clearing Corporation ("OCC"). *Id.*

³⁵ See Cboe Rulebook, Chapter 3, Rules 3.2–3.3.

³⁶ Similar to NYSE American, the Exchange assesses the monthly Trading Permit fee on a per-Member basis, not to each individual person within the Member.

³⁷ See Exchange Rule 100.

³⁸ An ROT is permitted to enter quotes and orders only for the account of the Market Maker with which he is associated. See Exchange Rule 601(a).

³⁹ See, generally, Chapter VI of the Exchange's Rules.

⁴⁰ See Exchange Rule 100.

⁴¹ An "ATP" or "ATP Holder" is a registered Broker-Dealer who is a permit holder on NYSE American, per NYSE American Rule 900.2NY(4),(5). See NYSE American Options Fee Schedule, Key Terms and Definitions section, available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁴² See, generally, NYSE American Rule 923NY.

⁴³ An "issue" means an options class. See Securities Exchange Act Release No. 67764 (August 31, 2012), 77 FR 55254 (September 7, 2012) (SR-NYSEMKT-2012-44) (changing the calculation of trading permit fees to be based on the "number of option classes in [a NYSE Amex Options Market Maker's] electronic trading appointment . . ." and then using the term "issue" in the tiers of ATP fees).

⁴⁴ See *id.*

⁴⁵ A "Market Maker" refers to an ATP Holder that acts as a Market Maker pursuant to NYSE American Rule 920NY and is referred to as an "NYSE AMERICAN Options Market Maker" in the NYSE American Fee Schedule. See NYSE American Options Fee Schedule, Preface, available at https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.

based on the number of issues permitted in an Options Market Maker's quoting assignment.⁴⁶ NYSE American provides tiered ATP fees ranging from \$8,000 to \$26,000 due to the cumulative nature of the fee,⁴⁷ which amount could be significantly higher if a market maker purchases six or more ATPs, while the Exchange provides tiered Trading Permit fees ranging from \$9,500 to \$29,500 (as proposed), based on the lesser of either the per class basis or percentage of total national ADV measurements. The Exchange offers even greater savings to Market Makers as it provides a reduced Trading Permit

fee of \$16,000 (as proposed) for Market Makers if their total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, which still allows these Market Makers to quote the entire market (or close to the entire market). NYSE American does not offer reduced fees for its Options Market Makers that only quote in certain classes compared to those that quote the entire market. NYSE American actually charges higher fees for Options Market Makers that

transacts in certain options classes, which fees add to the ATP fees described above.⁴⁸

Network Connectivity Fees (Disaster Recovery Facility)

The proposed network connectivity fees to the Exchange's disaster recovery facility for Members and non-Members are lower than the connectivity fees charged by Cboe C2 Exchange, Inc. ("Cboe C2") for connecting to the Cboe C2 disaster recovery facility, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per connection)
MIAX	1Gb Connectivity (disaster recovery)	\$650
	10Gb Connectivity (disaster recovery)	3,500
Cboe C2 ^a	Physical Port 1Gb (disaster recovery)	2,000
	Physical Port 10Gb (disaster recovery)	6,000

^a See Cboe C2 Fee Schedule, Physical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

Cboe C2. Cboe C2 charges higher 1Gb and 10Gb connectivity fees to connect to its disaster recovery facility than the Exchange proposes to connect to its disaster recovery facility. Cboe C2's connectivity fees to connect to its disaster recovery facility are analogous to the Exchange's connectivity fees to its disaster recovery facility. In general, the disaster recovery facility is a secondary data center in a separate, geographically diverse location that Exchange participants are able to connect to in order to have redundancy for their trading and market data connections in the event that the Exchange's primary

data center operations are disabled. Cboe C2's 1Gb and 10Gb connections to its disaster recovery center allow its members to connect to that data center in the event that Cboe C2's primary data center is no longer operational.⁴⁹

Cboe C2 charges higher 1Gb and 10Gb connectivity fees to its disaster recovery facility than the fees proposed by the Exchange herein for connectivity to the Exchange's disaster recovery facility. Cboe C2 charges monthly fees of \$2,000 per 1Gb connection and \$6,000 per 10Gb connection to its disaster recovery facility. Meanwhile, the Exchange proposes to charge monthly fees of \$650

per 1Gb connection and \$3,500 per 10Gb connection to its disaster recovery facility.

Network Connectivity Fees (Primary/Secondary Facility)

The proposed network connectivity fees to the Exchange's primary and secondary facility for Members and non-Members are lower than the connectivity fees charged by Nasdaq BX, Inc. ("Nasdaq BX") and NYSE American for connectivity to their primary data centers, as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per connection)
MIAX	1Gb Connectivity	\$1,500
	10Gb Connectivity	15,000
Nasdaq BX ^a	1Gb Connection	2,750
	10Gb Ultra Connection	18,500
NYSE American ^b	10Gb LX LCN Circuit	22,000

^a See Securities Exchange Act Release No. 104261 (November 25, 2025), 90 FR 55209 (December 1, 2025) (SR-BX-2025-027).

^b See NYSE American Connectivity Fee Schedule, page 12, available at https://www.nyse.com/publicdocs/nyse/Wireless_Connectivity_Fees_and_Charges.pdf.

The Exchange notes that Nasdaq BX and NYSE American operate on shared infrastructure with their affiliates. As such, one network connection to one

exchange provides access to the affiliated exchanges on their shared network. Meanwhile, the Exchange operates on a dedicated 10Gb ULL

network that is not shared with its affiliates and therefore, each 10Gb ULL connection only provides connectivity to a single exchange. In the Exchange's

⁴⁶ NYSE American charges ATP fees based on the maximum number of ATPs held during the month. The "bottom 45%" refers to the least actively traded issues on NYSE American, ranked by industry volume, as reported by the OCC for each issue during the calendar quarter. See NYSE American Options Fee Schedule, Section III.A., available at <https://www.nyse.com/publicdocs/nyse/markets/>

american-options/NYSE_American_Options_Fee_Schedule.pdf.

⁴⁷ This was calculated by adding the monthly fees for the first five ATPs that a market maker would be required to purchase in order to quote the entire NYSE American market (i.e., \$8,000 + \$6,000 + \$5,000 + \$4,000 + \$3,000).

⁴⁸ See NYSE American Options Fee Schedule, Section III.D. Premium Product fees (assessing an

additional monthly fee of \$1,000 per product to NYSE American Options Market Makers that transact in premium products, such as SPY, APPL, etc., capped at \$7,000 per month).

⁴⁹ See Cboe BCP/DR Plan Highlights, v1.3, page 2, available at https://cdn.cboe.com/resources/membership/Cboe_Corporate_BCP-DR.pdf.

experience, however, market participants that wish to experience certain latency may elect to purchase multiple connections rather than using one 10Gb connection to access multiple markets or, in some cases, purchase a more expensive 40Gb line if available. In addition, those that purchase connections to receive market data need a dedicated connection to each exchange because they are unable to receive market data from multiple markets over a single connection. Also, market participants may choose to not use the single connection to access other markets within an exchange family to avoid incurring other ancillary costs, such as membership, transaction, or other network fees.

Nasdaq BX. Nasdaq BX charges higher connectivity fees to its primary data center. Nasdaq BX's 1Gb and 10Gb Ultra fiber connection fees are analogous to the Exchange's 1Gb and 10Gb ULL connectivity fees. In general, the Exchange's 1Gb and 10Gb ULL connectivity fees provide Members and non-Members with access to the Exchange's primary and secondary facilities (*i.e.*, the live trading platforms and market data systems). Nasdaq BX's

1Gb and 10Gb Ultra fiber connections provide Nasdaq BX participants with the ability to connect directly to Nasdaq BX's trading platforms and market data feeds.⁵⁰

Nasdaq BX charges higher connectivity fees than the connectivity fees to the primary and secondary facilities proposed by the Exchange herein. Nasdaq BX charges all participants monthly fees of \$2,750 per 1Gb connection and \$18,500 per 10Gb connection to access its primary data center. Meanwhile, the Exchange proposes to charge Members and non-Members monthly fees of \$1,500 per 1Gb connection and \$15,000 per 10Gb ULL connection to the Exchange's primary and secondary facilities. Nasdaq BX charges an additional installation fee for each 1Gb or 10Gb connection of \$1,650.⁵¹

NYSE American. NYSE American charges higher 10Gb connectivity fees to its primary data center. NYSE American's 10Gb LX LCN Circuit connection fee is analogous to the Exchange's 10Gb ULL connectivity fee. In general, the Exchange's 10Gb ULL connectivity fee provides Members and non-Members with access to the

Exchange's primary and secondary facilities (*i.e.*, the live trading platforms and market data systems). NYSE American's 10Gb LX LCN Circuit connection provides NYSE American participants with the ability to connect directly to NYSE American trading platforms and market data feeds.⁵²

NYSE American charges higher connectivity fees as proposed by the Exchange herein. NYSE American charges all participants a monthly fee of \$22,000 per 10Gb LX LCN Circuit connection to access its primary data center. Meanwhile, the Exchange proposes to charge Members and non-Members a monthly fee of \$15,000 per 10Gb ULL connection to the Exchange's primary and secondary facilities. NYSE American charges an additional installation fee for each 10Gb LX LCN Circuit connection of \$15,000.⁵³

FIX Port Fees

The proposed FIX Port fees are comparable to, or lower than, the similar port fees charged by Cboe BZX Exchange, Inc. ("Cboe BZX"), Cboe C2 and the options trading facility of The Nasdaq Stock Market LLC ("Nasdaq"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX	1st FIX Port	\$700
	2nd to 5th FIX Ports	450
	6th or more FIX Ports	200
Cboe BZX ^a	Logical Ports	750
Cboe C2 ^b	FIX Logical Ports	650
Nasdaq ^c	FIX Ports	650

^a See Cboe BZX Fee Schedule, Options Logical Port Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/.

^b See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.

^c See Nasdaq Options 7 Pricing Schedule, Section 3(i)(1), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Cboe BZX. Cboe BZX charges higher Logical Port fees than the FIX Port fees proposed by the Exchange. Cboe BZX's Logical Ports are analogous to the Exchange's FIX Ports. In general, a FIX Port allows an Exchange Member to send simple and complex orders, as well as other messages, to the Exchange using the FIX protocol.⁵⁴ Cboe BZX's Logical Ports allow for order entry and other messages to be sent to Cboe BZX by participants.⁵⁵ Cboe BZX charges higher Logical Port fees than the FIX

Port fees proposed by the Exchange herein. Cboe BZX charges a monthly fee of \$750 per Logical Port, while the Exchange's highest proposed tier is only \$700 per FIX Port per month.

Cboe C2. Cboe C2 charges comparable FIX Logical Port fees as the FIX Port fees proposed by the Exchange, although the Exchange's first FIX Port fee is slightly higher (\$700 compared to \$650) with the Exchange's fees for subsequent FIX Ports decreasing to \$450 per port (FIX Ports 2–5) and then \$200 per port (FIX

Ports greater than 5). Cboe C2's FIX Logical Ports are analogous to the Exchange's FIX Ports. In general, a FIX Port allows an Exchange Member to send simple and complex orders and other messages to the Exchange using the FIX protocol.⁵⁶ Cboe C2's FIX Logical Ports allow for order entry and other messages to be sent to Cboe C2 by participants.⁵⁷

Cboe C2 charges comparable FIX Logical Port fees as proposed by the Exchange herein. Cboe C2 charges a

⁵⁰ See, generally, Nasdaq Market Connectivity Options web page, available at <https://www.nasdaq.com/solutions/nasdaq-co-location> (last visited March 22, 2026).

⁵¹ See Nasdaq BX, General 8: Connectivity, Section 1(b), Connectivity to the Exchange, available at <https://listingcenter.nasdaq.com/rulebook/bx/rules/BX%20General%208>.

⁵² See, generally, NYSE American Connectivity Fee Schedule, available at https://www.nyse.com/publicdocs/nyse/Wireless_Connectivity_Fees_and_Charges.pdf.

⁵³ See *id.*

⁵⁴ See Fee Schedule, Section 5(d)i), note 24.

⁵⁵ See, generally, Cboe Titanium U.S. Options FIX Specification, Version 2.7.97 (dated October 20,

2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁵⁶ See Fee Schedule, Section 5(d)i), note 24.

⁵⁷ See, generally, Cboe Titanium U.S. Options FIX Specification, Version 2.7.97 (dated October 20, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

monthly fee of \$650 per FIX Logical Port, while the Exchange's highest proposed tier is \$700 per FIX Port per month. Cboe C2 FIX Logical Port users may incur an additional monthly fee of \$650 per port. Cboe C2 provides that for the standard monthly fee of \$650 per FIX Logical Port, a user may enter up to 70,000 orders per trading day per port as measured on average in a single month. However, each incremental usage of up to 70,000 per day per FIX Logical Port will incur an additional \$650 fee per month.⁵⁸

Nasdaq. Nasdaq charges comparable FIX Port fees as the FIX Port fees proposed by the Exchange, although the Exchange's first FIX Port fee is slightly higher (\$700 compared to \$650) with the Exchange's fees for subsequent FIX Ports decreasing to \$450 per port (FIX Ports 2–5) and then \$200 per port (FIX Ports greater than 5). Nasdaq's FIX Ports are analogous to the Exchange's FIX Ports in that they that allow Nasdaq participants to connect, send, and receive messages related to orders to and from Nasdaq, which include the following: (1) execution messages; (2)

order messages; and (3) risk protection triggers and cancel notifications.⁵⁹ Nasdaq charges participants \$650 per FIX Port per month, while the Exchange's highest proposed tier is \$700 per FIX Port per month. Nasdaq charges comparable FIX Port fees as proposed by the Exchange herein.

Limited Service MEI Port Fees

The proposed Limited Service MEI Port ("LSPs") fees are lower than the similar port fees charged by Nasdaq and Nasdaq MRX, LLC ("Nasdaq MRX"), as summarized in the table below.

Exchange	Type of product/service	Monthly fee (per port)
MIAX	Limited Service MEI Port	\$350
Nasdaq ^a	QUO Ports	750
Nasdaq MRX ^b	OTTO Ports	650

^a See Nasdaq, Options 7: Pricing Schedule, Section 3(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

^b See Nasdaq MRX, Options 7: Pricing Schedule, Section 6(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/mrx/rules/MRX%20Options%207>.

Nasdaq. Nasdaq charges higher Quote Using Order ("QUO") Port fees than the Limited Service MEI Port fees proposed by the Exchange. The Exchange acknowledges differences between the functionality of its LSPs and that of Nasdaq's QUO Ports; however, the Exchange believes that the fee comparison between LSPs and QUO Ports is relevant as both ports provide a limited subset of functionality as provided by other ports offered by both the Exchange and Nasdaq. In general, Limited Service MEI Ports support all MEI Interface⁶⁰ input message types,⁶¹ but do not support bulk Quote entry.⁶² Notifications sent over LSPs between market participants and the Exchange may include the following information: (1) execution notifications, cancel notifications, stock leg execution notifications, and order notifications; (2) administrative messages (*i.e.*, series updates); (3) risk protection settings and notification updates; and (4) trading status notifications (*i.e.*, halted).⁶³ Nasdaq's QUO Ports allow Nasdaq market makers to connect, send, and receive messages related to single-sided

orders to and from Nasdaq.⁶⁴ Messages sent over QUO Ports may include the following: (1) options symbol directory messages (*e.g.*, underlying); (2) system event messages (*e.g.*, start of trading hours messages and start of opening); (3) trading action messages (*e.g.*, halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications.⁶⁵ Nasdaq charges a monthly fee of \$750 per QUO Port, per account number, while the Exchange provides the first four LSPs for free and proposes to charge \$350 per additional LSP for each matching engine per month thereafter. Nasdaq charges higher QUO Port fees than the fees proposed by the Exchange herein for LSPs.

Nasdaq MRX. Nasdaq charges higher Ouch to Trade Options ("OTTO") Port fees than the Limited Service MEI Port fees proposed by the Exchange. The Exchange acknowledges differences between the functionality of its LSPs and that of Nasdaq MRX's OTTO Ports; however, the Exchange believes that the fee comparison between LSPs and OTTO Ports is relevant as both ports

provide a limited subset of functionality as provided by other ports offered by both the Exchange and Nasdaq MRX. Nasdaq MRX's OTTO Ports allow Nasdaq MRX members to connect, send, and receive messages related to orders, auction orders, and auction responses to Nasdaq MRX.⁶⁶ Messages sent over OTTO Ports include the following: (1) options symbol directory messages (*e.g.*, underlying and complex instruments); (2) system event messages (*e.g.*, start of trading hours messages and start of opening); (3) trading action messages (*e.g.*, halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages.⁶⁷

Nasdaq MRX charges a monthly fee of \$650 per OTTO Port, per account number (with fees for all OTTO Ports, CTI Ports, FIX Ports, FIX Drop Ports and disaster recovery ports subject to a monthly cap of \$7,500), while the Exchange provides the first four LSPs for free and proposes to charge \$350 per additional LSP for each matching engine

⁵⁸ See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/. Incremental usage is determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed FIX Ports. See *id.*

⁵⁹ See Nasdaq Options 3 Options Trading Rules, Section 7(e)(1)(A).

⁶⁰ The MIAX Express Interface ("MEI") is a connection to MIAX systems that enables Market Makers to submit simple and complex electronic quotes to MIAX. See Fee Schedule, Section 5(d)(ii), note 26.

⁶¹ See MIAX MEI Interface Specification, Version 2.10a (revision date April 8, 2024), available at https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.10a.pdf (providing full description of messages supported by the MEI Interface).

⁶² See MIAX Options Exchange User Manual, Version 1.0.0, Section 5.01 (revision date December 12, 2023), available at https://www.miaxglobal.com/miax_options_user_manual.pdf.

⁶³ See MIAX MEI Interface Specification, Version 2.10a (revision date April 8, 2024), available at [https://www.miaxglobal.com/sites/default/files/job-](https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.10a.pdf)

[files/MIAX_Express_Interface_MEI_v2.10a.pdf](https://www.miaxglobal.com/sites/default/files/job-files/MIAX_Express_Interface_MEI_v2.10a.pdf) (providing full description of messages supported by the MEI Interface).

⁶⁴ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

⁶⁵ See Nasdaq Options 3: Options Trading Rules, Section 7(e)(1)(D).

⁶⁶ See Nasdaq MRX, Options 3: Options Trading Rules, Supplementary Material to Options 3, Section 7, .03(b).

⁶⁷ See Nasdaq MRX, Options 3: Options Trading Rules, Supplementary Material to Options 3, Section 7, .03(b).

per month thereafter. Nasdaq MRX charges higher OTTO Port fees than the fees proposed by the Exchange herein for LSPs.

Purge Port Fees

The proposed Purge Port fees are comparable to, or lower than, the

similar port fees charged by Nasdaq MRX, Cboe C2 and Nasdaq, as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX	Purge Ports	\$400 per matching engine.
Nasdaq MRX ^a	First 5 SQF Purge Ports	1,620 per port.
	Next 15 SQF Purge Ports	1,080 per port.
	All SQF Purge Ports over 20	540 per port.
Cboe C2 ^b	Purge Ports	850 per port
Nasdaq ^c	First 5 SQF Purge Ports	1,620 per port
	Next 15 SQF Purge Ports	1,080 per port.
	All SQF Purge Ports over 20	540 per port.

^a See Securities Exchange Act Release No. 104005 (September 18, 2025), 90 FR 45855 (September 23, 2025) (SR-MRX-2025-20) (new fees effective January 1, 2026).

^b See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/two/.

^c See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect. However, in a practical sense, the Exchange can surmise that a market participant would require multiple purge ports to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's trading behavior requires. The Exchange does not know the actual number of purge ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchange's entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

Nasdaq MRX. Nasdaq MRX charges higher Specialized Quote Feed ("SQF") Purge Port fees than the Purge Port fees proposed by the Exchange. Nasdaq MRX's SQF Purge Ports are analogous to the Exchange's Purge Ports. In general, Purge Ports provide Market Makers with the ability to send quote purge messages to the Exchange, but are not capable of sending or receiving any other type of messages or information.⁶⁸ Nasdaq MRX's SQF Purge Ports allow Nasdaq MRX market makers to send purge requests to the Nasdaq MRX trading system.⁶⁹

Nasdaq MRX charges higher SQF Purge Port fees than the Purge Port fees proposed by the Exchange herein. Nasdaq MRX will charge (beginning January 1, 2026) SQF Purge Port fees as follows: (a) \$1,620 per SQF Purge Port per month for the first 5 ports; (b) \$1,080 per SQF Purge Port per month for the next 15 ports; and (c) \$540 per SQF Purge Port for all ports over 20 ports. The Exchange proposes to charge \$400 per Purge Port per matching engine per month. The Exchange chose to charge Purge ports on a per matching engine basis instead of a per port basis due to its System architecture, which provides two (2) Purge Ports per matching engine for redundancy purposes. Market Makers are able to select the matching engines that they want to connect to based on the business needs of each Market Maker and pay the applicable fee based on the number of matching engines and pair of ports utilized.⁷⁰ This architecture provides Market Makers with flexibility to control their Purge Port costs based on the number of matching engines each Market Maker elects to connect to based on each Market Maker's business needs. Further, the Exchange's monthly Purge Port fee provides access to the Exchange's primary, secondary, and disaster recovery data centers for the single monthly fee. Nasdaq MRX, on the other hand, assesses an additional fee \$50 per SQF Purge Port per month, per account number, to access its disaster recovery facility (albeit, Nasdaq MRX currently waives the fee for one SQF

Purge Port to the disaster recovery facility per market maker per month).

Cboe C2. Cboe C2 charges higher Purge Port fees than the Purge Port fees proposed by the Exchange. Cboe C2's Purge Ports are analogous to the Exchange's Purge Ports. In general, Cboe C2's Purge Ports allow its members the ability to cancel a subset (or all) of open orders across the executing firm's ID, underlying symbol(s), or custom group ID, across multiple logical ports/sessions.⁷¹ Cboe C2 charges \$850 per Purge Port per month, while the Exchange proposes to charge \$400 per pair of Purge Ports per matching engine per month. Cboe C2 charges higher Purge Port fees than the Purge Port fees proposed by the Exchange herein.

Nasdaq. Nasdaq charges higher SQF Purge Port fees than the Purge Port fees proposed by the Exchange. Nasdaq's SQF Purge Ports are analogous to the Exchange's Purge Ports, which allow Nasdaq market makers to send purge requests to the Nasdaq trading system.⁷²

Nasdaq charges higher Purge Port fees than proposed by the Exchange herein. Nasdaq charges tiered SQF Purge Port fees as follows: (a) \$1,620 per SQF Purge Port per month for the first 5 ports; (b) \$1,080 per SQF Purge Port per month for the next 15 ports; and (c) \$540 per SQF Purge Port for all ports over 20 ports. The Exchange proposes to charge a flat \$400 per pair of Purge Ports per matching engine per month.

⁷¹ See Cboe Purge Ports, Frequently Asked Questions, U.S. Options, Version 1.3, available at https://cdn.cboe.com/resources/features/Cboe_USO_PurgePortsFAQs.pdf (last visited November 5, 2025).

⁷² See Nasdaq Options 3: Trading Rules, Section 7(e)(1)(B).

⁶⁸ See Fee Schedule, Section 5(d)ii), note 30.

⁶⁹ See Nasdaq MRX Options 3: Trading Rules, Supplementary Material to Options 3, Section 7, .03(c).

⁷⁰ The Exchange notes that each matching engine corresponds to a specified group of symbols. Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

FXD Port Fees

The proposed FXD Port fees are comparable to the similar port fees

charged by Cboe C2 and Nasdaq BX, as summarized in the table below.

Exchange	Type of product/service	Monthly fee
MIAX	FXD Ports	\$675
Cboe C2 ^a	Drop Logical Ports	650
Nasdaq ^b	FIX Drop Ports	650

^a See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/two/.

^b See Nasdaq Options 7: Pricing Schedule, Section 3 Nasdaq Options Market—Ports and Other Services, available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207>.

Cboe C2. Cboe C2 charges comparable logical Drop Port fees as the FXD Port fees proposed by the Exchange. Cboe C2's Drop Logical Ports are analogous to the Exchange's FXD Ports. In general, FXD Ports allow the Exchange's market participants to connect their systems with a messaging interface that provides a copy of real-time trade execution, trade correction and trade cancellation information.⁷³ Cboe C2's Drop Logical Ports allow its members to receive real-time information about order flow, including execution information (*i.e.*, filled or partially filled) and cancellation information.⁷⁴ Like the Exchange's FXD Ports, Cboe C2's Drop Logical Ports do not allow the user to

submit orders to the exchange. Cboe C2 charges \$650 per Drop Logical Port per month, while the Exchange proposes to charge \$675 per FXD Port per month. Cboe C2 charges comparable Drop Logical Port fees as the FXD Port fees proposed by the Exchange herein.

Nasdaq. Nasdaq charges comparable FIX Drop Port fees as the FXD Port fees proposed by the Exchange. Nasdaq's FIX Drop Ports are analogous to the Exchange's FXD Ports in that they provide a real-time order and execution update message that is sent to a Nasdaq participant after an order has been received or modified or an execution has occurred and contains trade details specific to that participant.⁷⁵ The

information provided through the Nasdaq FIX Drop Port includes, among other things, the following: (i) executions; (ii) cancellations; (iii) modifications to an existing order and (iv) busts or post-trade corrections.⁷⁶ Nasdaq charges \$650 per FIX Drop Port per month, while the Exchange proposes to charge \$675 per FXD Port per month. Nasdaq charges comparable FIX Drop Port fees as the FXD Port fees proposed by the Exchange herein.

Full Service MEI Port Fees

The proposed Full Service MEI Port fees are comparable to the similar port fees charged by Cboe C2, as summarized in the table below.

Exchange	Type of product/service	Monthly fee															
MIAX	Market Maker Full Service MEI Port.	<table> <tr> <td>\$6,500</td><td>Up to 5 Classes</td><td>Up to 10% of Classes by volume (as a % of national ADV).</td></tr> <tr> <td>13,500</td><td>Up to 10 Classes</td><td>Up to 20% of Classes by volume (as a % of national ADV).</td></tr> <tr> <td>19,000</td><td>Up to 40 Classes</td><td>Up to 35% of Classes by volume (as a % of national ADV).</td></tr> <tr> <td>23,500</td><td>Up to 100 Classes</td><td>Up to 50% of Classes by volume (as a % of national ADV).</td></tr> <tr> <td>27,500</td><td>Over 100 Classes</td><td>Over 50% of Classes by volume up to all Classes on MIAX (as a % of national ADV).</td></tr> </table>	\$6,500	Up to 5 Classes	Up to 10% of Classes by volume (as a % of national ADV).	13,500	Up to 10 Classes	Up to 20% of Classes by volume (as a % of national ADV).	19,000	Up to 40 Classes	Up to 35% of Classes by volume (as a % of national ADV).	23,500	Up to 100 Classes	Up to 50% of Classes by volume (as a % of national ADV).	27,500	Over 100 Classes	Over 50% of Classes by volume up to all Classes on MIAX (as a % of national ADV).
\$6,500	Up to 5 Classes	Up to 10% of Classes by volume (as a % of national ADV).															
13,500	Up to 10 Classes	Up to 20% of Classes by volume (as a % of national ADV).															
19,000	Up to 40 Classes	Up to 35% of Classes by volume (as a % of national ADV).															
23,500	Up to 100 Classes	Up to 50% of Classes by volume (as a % of national ADV).															
27,500	Over 100 Classes	Over 50% of Classes by volume up to all Classes on MIAX (as a % of national ADV).															
Cboe C2 ^a	Bulk BOE Ports	\$1,500 per port for ports 1 through 5 \$2,500 per port for ports 6 or more															

^a See Cboe C2 Fee Schedule, Logical Connectivity Fees section, available at https://www.cboe.com/us/options/membership/fee_schedule/two/.

The Exchange's comparison to fees charged by other exchanges for similar ports is limited because a thorough comparison would require the Exchange to obtain competitively sensitive information about other exchanges' architecture and how their members connect. However, in a practical sense, the Exchange can surmise that a market participant would require multiple ports to access an exchange's entire market as a single port might not connect to all matching engines or provide the latency benefits that the market participant's quoting behavior requires. The

Exchange does not know the actual number of purge ports needed because it does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of ports a firm would need to connect to another exchange's entire market and quote that entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' port fees as listed in their fee schedules.

Cboe C2. Cboe C2 charges similar, or higher, bulk order port fees than the Full Service MEI Port fees proposed by

the Exchange. Cboe C2's Bulk BOE Ports are analogous to the Exchange's Full Service MEI Ports. In general, Full Service MEI Ports provide Market Makers with the ability to send simple and complex quotes, eQuotes, and quote purge messages to the MIAX System.⁷⁷ Full Service MEI Ports are also capable of receiving administrative information.⁷⁸ The Exchange's Full Service MEI Ports entitle a Market

⁷³ See Fee Schedule, Section 5)d)iv).

⁷⁴ See Cboe Titanium U.S. Options FIX Specification, Version 2.7.97, FIX Drop section (dated October 20, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁷⁵ See Nasdaq Options 3: Trading Rules, Section 23(b)(3).

⁷⁶ *Id.*

⁷⁷ See Fee Schedule, Section 5)d)ii), note 27.

⁷⁸ See Fee Schedule, Section 5)d)ii), note 27. See also MIAX Options Exchange User Manual, Version 1.0.0, Section 5.01 (revision date December 12, 2023), available at https://www.miaxglobal.com/miax_options_user_manual.pdf.

Maker to two such ports for each matching engine for a single monthly port fee.⁷⁹ The Exchange has twenty-four total matching engines; therefore, for one monthly fee, each Market Maker is provided forty-eight total Full Service MEI Ports (*i.e.*, two per matching engine multiplied by twenty-four matching engines). Cboe C2's Bulk BOE Ports provide users with the ability to submit single and bulk order messages to enter, modify, or cancel orders and are intended for use by market makers quoting large numbers of simple options series.⁸⁰ Each Bulk BOE Port has access to all of Cboe C2's matching units, which, according to Cboe, typically ranges from 31–35 matching units per Cboe-affiliated exchange.⁸¹ The Cboe C2 Bulk BOE Port does not provide a Cboe C2 market maker with a port for each matching unit and the Exchange believes that, based on the experience of its own Market Makers, it would not be feasible to quote an entire market with only a single (or handful) of ports; rather, a market maker would likely need to have a port on each matching unit to be able to quote the entire market.

The Exchange believes that Cboe C2 charges similar or higher bulk port fees as the Full Service MEI Port fees proposed by the Exchange herein. Cboe C2 charges \$1,500 per port for the first five Bulk BOE Ports, and \$2,500 per port for each Bulk BOE Port utilized in excess of five ports. The Exchange proposes to charge between \$6,500 and \$27,500 per month for Full Service MEI Ports for Market Makers, depending on the number of classes assigned or percentage of national ADV. The Exchange's proposed Full Service MEI Port fees for Market Makers provide two such ports for each of the Exchange's twenty-four matching engines, for a total of forty-eight total ports for the monthly fee (between \$6,500 and \$27,500). For a Cboe C2 member to utilize a Bulk BOE Port on each matching unit, that member may need to purchase between 31 and 35 such ports. When drawing a comparison to the Exchange's proposed highest tier for Full Service MEI Ports (\$27,500), which provides an Exchange Member with 48 total ports, the Cboe C2

member would only receive 13 Bulk BOE Ports for the same price (*i.e.*, (\$1,500 per Bulk BOE Port multiplied by the first five Bulk BOE Ports) + (\$2,500 per Bulk BOE Port multiplied by the next eight Bulk BOE Ports)). Accordingly, the Exchange believes Cboe C2 charges similar or higher bulk port fees as the Full Service MEI Port fees proposed by the Exchange herein.

* * * * *

Each of the above examples of other exchanges' non-transaction fees support the proposition that the Exchange's proposed fees are comparable to those of other exchanges for similar products or services and are, therefore, reasonable.

The Proposed Fees are Equitably Allocated and Not Unfairly Discriminatory

Overall. The Exchange believes that its proposed fees are reasonable, equitable, and not unfairly discriminatory because, in sum, they are designed to align fees with services provided by amending them to levels that are comparable to similar fees for services assessed by other equity options exchanges. The Exchange believes that the proposed fees are allocated fairly and equitably among Members and non-Members because they apply to all Members and non-Members equally, and any differences among categories of fees are not unfairly discriminatory and are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all Members and non-Members that choose to purchase a particular service based on their business need. Any Member or non-Member that chooses to purchase a particular product or service is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to purchase a particular product or service is based on objective differences in usage of the particular product or service among different Members and non-Member, which are still ultimately in the control of any particular Member or non-Member. The Exchange believes the proposed pricing is equitably allocated because of the service's or product's utility and value to market participants as compared to other like exchanges' products and services.

The Exchange further believes that the proposed fees are reasonable, fair and equitable, and non-discriminatory because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy.

EEM Trading Permit Fees. The Exchange believes the proposed Trading Permit fee for EEMs is equitably allocated and not unfairly discriminatory because the proposed fee would apply to each EEM in a uniform manner without regard to membership status or the extent of any other business with the Exchange or affiliated entities (*i.e.*, order flow provider, clearing services, etc.).

Market Maker Trading Permit Fees. The Exchange believes the proposed Trading Permit fees for Market Makers are equitable as the fees apply equally to all Market Makers based upon the number of class registrations or percentage of executed national ADV each month. The Exchange believes that assessing lower fees to Market Makers that quote in fewer classes is equitable because it will allow the Exchange to retain and attract smaller-scale Market Makers, which are an integral component of the options industry marketplace. Since these smaller Market Makers typically utilize less bandwidth and capacity on the Exchange network due to the lower number of quoted classes, the Exchange believes it is equitable to offer Market Makers Trading Permit fee tiers with lower rates based on a lower number of classes assigned or a lower percentage of executed national ADV. In addition, smaller Market Makers who want to quote greater number of classes or a higher percentage of executed national ADV, but have lower volume thresholds, the Exchange believes it is equitable to offer such Market Makers a lower fee, designated in footnote “*” following the Market Maker Trading Permit fee table.

The Exchange believes it is equitable and not unfairly discriminatory to charge higher Trading Permit fees to Market Makers that quote a higher number of classes or execute higher percentages of volume on the Exchange because the System requires increased performance and capacity in order to provide the opportunity for Market Makers to quote in a higher number of options classes on the Exchange. Specifically, more classes that are actively quoted on the Exchange by a Market Maker will require increased memory for record retention, increased bandwidth for optimized performance, increased functionalities on each application layer, and increased optimization with regard to surveillance and monitoring of such classes quoted. As such, basing the higher Market Maker Trading Permit fees on the greater number of classes quoted in on any given day in a calendar month is equitable and not unfairly

⁷⁹ See Fee Schedule, Section 5)d)ii), note 27.

⁸⁰ See Securities Exchange Act Release No. 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR-C2-2018-006) and Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.10, page 45 (October 31, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf.

⁸¹ See Cboe Titanium U.S. Options Binary Order Entry Version 3 Specification, Version 1.10, page 224 (October 31, 2025), available at https://cdn.cboe.com/resources/membership/US_Options_BOE3_Specification.pdf.

discriminatory when considering how the increased number of quoted classes directly impacts the resources required for the Exchange to operate for all market participants.

Network Connectivity Fees. The Exchange believes that the proposed fees for network connectivity to the primary/secondary facility and disaster recovery facility for Members and non-Members are equitably allocated because they would apply equally to all market participants that choose to purchase such connectivity products and services from the Exchange. Any participant that chooses to purchase the Exchange's connectivity products and services would be subject to the same fees, regardless of what type of business they operate or the use they plan to make of the products and services. Additionally, the fee increases would be applied uniformly to market participants without regard to Exchange membership status or the extent of any other business with the Exchange or affiliated entities.

The Exchange believes that the proposed fees are equitably allocated among anticipated users of the network connectivity as the Exchange expects that users of 10Gb ULL connections will consume substantially more bandwidth and network resources than users of 1Gb connections. It is the experience of the Exchange and its affiliated exchanges that this is the case as 10Gb ULL connection users have historically accounted for more than 99% of message traffic over the network, which drives increased capacity utilization, while the users of the 1Gb connections account for less than 1% of message traffic over the network. In the experience of the Exchange and its affiliates, users of the 1Gb connections do not have the same business needs for the high-performance network as 10Gb ULL users.

The Exchange's high-performance network and supporting infrastructure (including employee support), provides unparalleled system throughput. To achieve a consistent, premium network performance, the Exchange built out and must now maintain a network that has the capacity to handle the message rate requirements of its most heavy network consumers. These billions of messages per day consume the Exchange's resources and significantly contribute to the overall increase in storage and network transport capabilities. The Exchange must analyze its storage capacity on an ongoing basis to ensure it has sufficient capacity to store these messages to satisfy its record keeping

requirements under the Exchange Act.⁸² Given this difference in network utilization rate, the Exchange believes that it is equitable and not unfairly discriminatory that the 10Gb ULL users continue to pay higher network connectivity fees.

FIX and FXD Port Fees. The Exchange believes that the proposed FIX and FXD Port fees are equitable and non-discriminatory because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy. The proposed fees for each type of port (FIX or FXD) does not depend on any distinctions between Members, customers, broker-dealers, or any other entity. The proposed fee will be assessed solely based on the number of FIX or FXD Ports an entity selects and not on any other distinction applied by the Exchange. The Exchange believes offering a tiered fee structure where the fee for FIX Ports decreases with the number utilized is equitable and not unfairly discriminatory because FIX Ports are used for order entry compared to FXD Ports, which are used to provide messages concerning real-time trade execution, trade correction and trade cancellation information and, in the Exchange's experience, Members tend to utilize fewer such ports overall. Further, the Exchange believes the proposed fees for FIX and FXD Ports are reasonable because for one monthly fee for each port, Members are able to access all matching engines.

Purge Port Fees. The Exchange believes that the proposed Purge Port fees are equitable because Purge Ports are completely voluntary as they relate solely to optional risk management functionality. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Maker is required or under any regulatory obligation to utilize Purge Ports. In fact, some market participants, in particular the larger firms, could and do build similar risk functionality in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the

Exchange for Market Makers that chose to purchase them.

Purge Ports enhance Market Makers' ability to manage quotes, which, in turn, improves their risk controls to the benefit of all market participants. The Exchange also believes that the proposed Purge Port fees are not unfairly discriminatory because they will apply uniformly to all Market Makers that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Market Makers that voluntarily select this service option will be charged the same amount for the same services based upon the number of matching engines. The Exchange also believes that offering Purge Ports at the matching engine level promotes risk management across the industry, and thereby facilitates investor protection. Offering matching engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality. As such, the Exchange believes the proposed fees are equitable and not unfairly discriminatory.

Limited Service MEI Port Fees. The Exchange believes the proposed fee for Limited Service MEI Ports is not unfairly discriminatory because it would apply to all Market Makers equally. All Market Makers remain eligible to receive four free Limited Service MEI Ports per matching engine and those that elect to purchase more would be subject to the same monthly rate depending upon the number they choose to utilize. In the Exchange's experience, certain Market Makers choose to purchase additional Limited Service MEI Ports based on their own particular trading/quoting strategies and feel they need a certain number of ports to execute on those strategies. Other Market Makers may continue to choose to only utilize the free Limited Service MEI Ports to accommodate their own trading or quoting strategies, or other business models. All Market Makers elect to receive or purchase the amount of Limited Service MEI Ports they require based on their own business decisions and all Market Makers would be subject to the same fee structure. Every Market Maker may receive up to four free Limited Service MEI Ports and those that choose to purchase additional Limited Service MEI Ports may elect to do so based on their own business

⁸² 17 CFR 240.17a-1 (recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies and the Municipal Securities Rulemaking Board).

decisions and would continue to be subject to the same monthly fees.

The Exchange believes that the proposed fee for Limited Service MEI Ports is reasonable, equitable, and not unfairly discriminatory because it is designed to align fees with services provided, will apply equally to all Market Makers that are assigned Limited Service MEI Ports, and minimizes barriers to entry by providing all Market Makers with four free Limited Service MEI Ports. As a result, there are several Market Makers that are not subject to any additional LSP fees. In contrast, other exchanges generally charge in excess of \$350 per port (the fee the Exchange proposes to charge for Limited Service MEI Ports) without providing any initial ports for free.⁸³

The Exchange believes that the proposed Limited Service MEI Port fee structure is equitable and not unfairly discriminatory because it will continue to enable Market Makers to access the Exchange with four free ports before the proposed fees for additional Limited Service MEI Ports apply, thereby continuing to encourage order flow and liquidity from a diverse set of Market Makers, facilitating price discovery and the interaction of orders. The Exchange notes that a substantial majority of Market Makers only utilize the four Limited Service MEI Ports provided for no fee. The proposed fees are designed to encourage Market Makers to be efficient with their Limited Service MEI Port usage. There is no requirement that any Market Maker maintain a specific number of Limited Service MEI Ports and a Market Maker may choose to maintain as many or as few of such ports as each Market Maker deems appropriate.

Full Service MEI Port Fees. The proposed fees for Full Service MEI Ports are not unfairly discriminatory because they would apply to all Market Makers equally. The Exchange's pricing structure for Full Service MEI Ports is similar to the pricing structure used by the Exchange's affiliates, MIAX Pearl, MIAX Emerald, and MIAX Sapphire, for their Full Service MEI/MEO Port fees.⁸⁴ In the Exchange's experience, Members

that are frequently in the highest tier for Full Service MEI Ports consume the most bandwidth and resources of the network.

To achieve a consistent, premium network performance, the Exchange must build out and maintain a network that has the capacity to handle the message rate requirements of its most heavy network consumers during anticipated peak market conditions. The need to support billions of messages per day consumes the Exchange's resources and significantly contributes to the overall need to increase network storage and transport capabilities. Thus, as the number of ports a Market Maker has increases, the related pull on Exchange resources may continue to increase.

The Exchange further believes that the proposed fees are reasonable, equitably allocated and not unfairly discriminatory because, for the flat fee in each tier, the Exchange provides each Member two Full Service MEI Ports for each matching engine to which that Member is connected. Unlike other options exchanges that provide similar port functionality and charge fees on a per port basis,⁸⁵ the Exchange offers Full Service MEI Ports as a package and provides Market Makers with the option to receive up to two Full Service MEI Ports per matching engine to which it connects. The Exchange currently has twenty-four matching engines, which means Market Makers may receive up to forty-eight Full Service MEI Ports for a single monthly fee, which can vary based on certain volume percentages or classes the Market Maker is registered in. Assuming a Market Maker connects to all twenty-four matching engines during the month, and achieves the highest tier for that month, with two Full Service MEI Ports per matching engine, this would result in a cost of approximately \$573 per Full Service MEI Port (\$27,500 divided by 48, and rounded up to the nearest dollar).

The Exchange believes the proposed reduced Full Service MEI Port fee for Market Makers that fall within the 3rd, 4th, and 5th levels of the Full Service MEI Port fee table and certain volume thresholds are met is not unfairly discriminatory because this lower monthly fee is designed to provide a

lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise execute a significant amount of volume on the Exchange. The Exchange believes that, by continuing to offer a lower fixed cost to Market Makers that execute less volume, the Exchange will continue to retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. The Exchange believes it is beneficial to incentivize these additional Market Makers to register to make markets on the Exchange to increase liquidity as the Exchange begins operations. Increased liquidity from a diverse set of market participants helps facilitate price discovery and the interaction of orders, which benefits all market participants of the Exchange. Since these smaller-scale Market Makers may utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable, equitably allocated and not unfairly discriminatory to offer such Market Makers a lower fixed cost. The Exchange notes that its affiliated markets, MIAX Pearl, MIAX Emerald, and MIAX Sapphire, offer a similar reduced fee for their Full Service MEO/MEI Ports for smaller-scale Market Makers.⁸⁶

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For all of the foregoing reasons, the Exchange believes that the proposed fees are equitably allocated and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,⁸⁷ the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

EEM Trading Permit Fees

The Exchange believes the proposed Trading Permit fee for EEMs does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the

⁸³ See Nasdaq, Options 7: Pricing Schedule, Section 3(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207> (providing zero free ports and charging \$750 per QUO Port, which is analogous to the Exchange's Limited Service MEI Ports) and Nasdaq MRX, Options 7: Pricing Schedule, Section 6(i)(4), available at <https://listingcenter.nasdaq.com/rulebook/mrx/rules/MRX%20Options%207> (providing zero free ports and charging \$650 per OTTO Port, which is analogous to the Exchange's Limited Service MEI Ports).

⁸⁴ See MIAX Pearl Fee Schedule, Section 5(d); MIAX Emerald Fee Schedule, Section 5(d)ii; and MIAX Sapphire Fee Schedule, Section 5(d)iii.

⁸⁵ See NASDAQ Pricing Schedule, Options 7, Section 3, Ports and Other Services and NASDAQ Rules, General 8: Connectivity, Section 1. Co-Location Services (similar to the MIAX Pearl Options' MEO Ports, SQF ports are primarily utilized by Market Makers); ISE Pricing Schedule, Options 7, Section 7, Connectivity Fees and ISE Rules, General 8: Connectivity; NYSE American Options Fee Schedule, Section V.A. Port Fees and Section V.B. Co-Location Fees; GEMX Pricing Schedule, Options 7, Section 6, Connectivity Fees and GEMX Rules, General 8: Connectivity.

⁸⁶ See MIAX Pearl Fee Schedule, Section 5(d), note "***"; MIAX Emerald Fee Schedule, Section 5(d)ii, note "--"; and MIAX Sapphire Fee Schedule, Section 5(d), note "b".

⁸⁷ 15 U.S.C. 78f(b)(8).

proposed fee does not favor certain categories of market participants in a manner that would impose a burden on competition. The proposed fee is the same for all EEMs of different sizes and business models without regard to membership status or the extent of any other business with the Exchange or affiliated entities.

Market Maker Trading Permit Fees

The Exchange believes that the proposed Trading Permit fees for Market Makers do not place certain market participants at a relative disadvantage to other market participants because the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the fee rates are designed in order to provide objective criteria for Market Makers of different sizes and business models that best matches their order and quoting activity on the Exchange. Further, the Exchange believes that the proposed Market Maker Trading Permit fees will not impose a burden on intra-market competition because, when these fees are viewed in the context of the overall activity on the Exchange, Market Makers: (1) consume the most bandwidth and resources of the network; (2) transact the vast majority of the volume on the Exchange; and (3) require the high touch network support services provided by the Exchange and its staff, including more costly network monitoring, reporting and support services, resulting in a much higher cost to the Exchange. The Exchange notes that the majority of customer demand comes from Market Makers, whose transactions make up a majority of the volume on the Exchange. Further, other member types, *i.e.* EEMs, take up significantly less Exchange resources and costs. As such, the Exchange does not believe charging Market Makers higher Trading Permit fees than other member types will impose a burden on intra-market competition.

The Exchange believes that the increasing fees under the tiered Market Maker Trading Permit fee structure do not impose a burden on intra-market competition because the tiered structure continues to take into account the number of classes quoted by each individual Market Maker or percentage of total national ADV. The Exchange's system requires increased performance and capacity in order to provide the opportunity for each Market Maker to quote in a higher number of options classes on the Exchange. Specifically, the more classes that are actively quoted on the Exchange by a Market Maker requires increased memory for record

retention, increased bandwidth for optimized performance, increased functionalities on each application layer, and increased optimization with regard to surveillance and monitoring of such classes quoted. As such, basing the Market Maker Trading Permit fee on the greatest number of classes quoted in on any given day in a calendar month, or percentage of total national ADV, does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act when taking into account how the increased number of quoted classes directly impact the costs and resources for the Exchange.

Network Connectivity Fees

The Exchange believes that the proposed network connectivity fees for Members and non-Members do not place certain market participants at a relative disadvantage to other market participants or affect the ability of such market participants to compete. The proposed fees will apply uniformly to all market participants regardless of the number of 1Gb or 10Gb ULL connections they choose to purchase to the primary/secondary facility or the disaster recovery facility. The proposed fees do not favor certain categories of market participants in a manner that would impose an undue burden on competition.

The Exchange does not believe that the proposed fees for connectivity services place certain market participants at a relative disadvantage to other market participants because the proposed connectivity pricing is associated with relative usage of the Exchange by each market participant and does not impose a barrier to entry to smaller participants. The Exchange believes its proposed pricing is reasonable and, when coupled with the availability of third-party providers that also offer connectivity solutions, participation on the Exchange is competitive for all market participants, including smaller trading firms. The connectivity services purchased by market participants typically increase based on their additional message traffic and/or the complexity of their operations. The market participants that utilize more connectivity services typically utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the proposed fees for connectivity services do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed connectivity fees reflects the network resources

consumed by the various size of market participants and the costs to the Exchange of providing such connectivity services.

FIX and FXD Port Fees

The Exchange believes that the proposed FIX and FXD Port fees do not place certain market participants at a relative disadvantage to other market participants because they will apply to all Members in the same manner and are not targeted at a specific type or category of market participant engaged in any particular trading strategy. The proposed fees for each type of port (FIX or FXD) do not depend on any distinctions between Members, customers, broker-dealers, or any other entity. The proposed fee will be assessed solely based on the number of FIX or FXD Ports an entity selects and not on any other distinction applied by the Exchange.

Purge Port Fees

The Exchange believes that the proposed Purge Port fees do not place certain market participants at a relative disadvantage to other market participants because Purge Ports are completely voluntary as they relate solely to optional risk management functionality. Purge Ports enhance Members' ability to manage orders, which, in turn, improves their risk controls to the benefit of all market participants. Further, the proposed fees apply uniformly to all Members that choose to use the optional Purge Ports and no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily choose to utilize Purge Ports will be charged the same amount based upon the number of matching engines for each set of Purge Ports in use.

Limited Service MEI Port Fees

The Exchange does not believe its proposed fee for Limited Service MEI Ports will place certain market participants at a relative disadvantage to other market participants. All Market Makers would be eligible to receive four free Limited Service MEI Ports and those that elect to purchase more would be subject to the same monthly fee. All Market Makers purchase the amount of Limited Service MEI Ports they require based on their own business decisions and similarly situated firms are subject to the same fee.

Full Service MEI Port Fees

The Exchange does not believe proposed fees for Full Service MEI Ports will place certain market participants at a relative disadvantage to other market

participants because they would apply to all Market Makers equally depending on the number of classes the Market Maker is registered to quote in or the percentage of national ADV. The Exchange believes the proposed fees will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in the Exchange's experience, Market Makers that are frequently in the highest tier for Full Service MEI Ports consume the most bandwidth and resources of the network.

The Exchange further believes that the proposed fees do not place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete because, for the flat fee in each tier, the Exchange provides each Market Maker two Full Service MEI Ports for each matching engine to which that Market Maker is connected. Further, the Exchange offers a reduced Full Service MEI Port fee for Market Makers that fall within the 3rd, 4th and 5th levels of the Full Service MEI Port fee table, which lower monthly fee is designed to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise execute a significant amount of volume on the Exchange.

The Exchange believes that, by continuing to offer a lower fixed cost to Market Makers that execute less volume, the Exchange will continue to retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Accordingly, the Exchange believes the reduced fee will promote competition by incentivizing these additional Market Makers to register to make markets on the Exchange to increase liquidity.

Inter-Market Competition

The Exchange does not believe that the proposed changes will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. In contrast, the Exchange believes that, without the fee changes proposed herein, the Exchange is potentially at a competitive disadvantage to certain other exchanges that have in place comparable or higher fees for similar services, as described above. The

Exchange believes that non-transaction fees can be used to foster more competitive transaction pricing and additional infrastructure investment and there are other options markets of which market participants may connect to trade options that charge higher or comparable rates as the Exchange for similar services and products. Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,⁸⁸ and Rule 19b-4(f)(2)⁸⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2026-12 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.

⁸⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸⁹ 17 CFR 240.19b-4(f)(2).

All submissions should refer to file number SR-MIAX-2026-12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-MIAX-2026-12 and should be submitted on or before May 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07041 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105175; File No. SR-CBOE-2026-020]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To Exchange Rules 4.3 (Criteria for Underlying Securities) and 4.4 (Withdrawal of Approval of Underlying Securities) To Establish Listing Criteria and Withdrawal Standards for Options on Commodity-Based Trusts Holding Multiple Crypto Assets

April 8, 2026.

I. Introduction

On February 23, 2026, Cboe Exchange, Inc. ("Cboe" or "the Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt listing criteria for options on Commodity-Based Trusts that hold multiple crypto assets. The proposed rule change was published for comment in the **Federal Register** on March 4,

⁹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

2026.³ The Commission received no comments regarding the proposed rule change. On April 1, 2026, the Exchange filed Amendment No. 1 to the proposal, which amends and replaces the original proposal in its entirety (“Amendment No. 1”).⁴ This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

Currently, Exchange Rule 4.3, Interpretation and Policy .06(a)(6) allows the Exchange to list options on shares that represent interests in a Commodity-Based Trust that meets the generic criteria of the U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust, except that the Commodity-Based Trust holds a single crypto asset, as defined in Exchange Rule 4.3, Interpretation and Policy .06(a)(6), and provided that (A) the global supply of the crypto asset held by the Commodity-Based Trust has an average daily market value of at least \$700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group (“ISG”).⁵ The Exchange proposes to amend Exchange Rule 4.3, Interpretation and Policy .06(a)(6) to allow the Exchange to list and trade options on a Commodity-Based Trust that holds multiple crypto assets. The proposal would allow the Exchange to list and trade these options without additional approval from the Commission.⁶ Under the proposal, each crypto asset that the Commodity-Based Trust holds must meet the criteria in proposed Exchange Rule 4.3, Interpretation and Policy, 06(a)(6).⁷ Accordingly, each of the Commodity-

Based Trust’s crypto assets must: (A) have an average daily market value of at least \$700 million over the last 12 months; and (B) underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.⁸ The proposed Commodity-Based Trust share options also must satisfy the Exchange’s initial and continued listing standards applicable to all options on Units.⁹ Under the Exchange’s rules, shares of securities underlying listed options must be NMS stocks.¹⁰ In addition, Exchange Rule 4.3, Interpretation and Policy .06(b) requires the shares of a Unit to (1) meet the criteria and guidelines in Exchange Rule 4.3 and Interpretation and Policy .01 thereunder,¹¹ or (2) meet the criteria in

⁸ See proposed Exchange Rule 4.3, Interpretation and Policy .06(a)(6). The Exchange states that the market value for each crypto asset that a Commodity-Based Trust holds will be calculated by taking the total global supply of the crypto asset multiplied by the token price of that asset. The Exchange states that the total supply of a crypto asset includes all crypto assets currently issued and does not include unissued crypto assets. See Amendment No. 1 at 5.

⁹ See Amendment No. 1 at 9. The Exchange’s rules define “Unit” and “ETF” (“Exchange-Traded Fund”) to mean a share or other security traded on a national securities exchange and defined as an NMS stock as set forth in Rule 4.3. See Exchange Rule 1.1. In its proposal, the Exchange refers to Commodity-Based Trusts as ETFs or Units. See Amendment No. 1.

¹⁰ See Exchange Rule 4.3(a)(1).

¹¹ See Amendment No. 1 at 6. Exchange Rule 4.3(a) states that securities underlying options that are approved for listing and trading on the Exchange must meet the following criteria: (1) the security must be duly registered and be an NMS stock; and (2) the security shall be characterized by a substantial number of outstanding shares which are widely held and actively traded. Exchange Rule 4.3, Interpretation and Policy .01 states, in part, that, absent exceptional circumstances, the following guidelines with respect to issuers shall be met: (a) Guidelines applicable to the issuer of the security are: (1) there are a minimum of 7,000,000 shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange Act; (2) there are a minimum of 2,000 holders of the underlying security; (3) the issuer is in compliance with any applicable requirements of the Exchange Act. (b) Guidelines applicable to the market for the security are: (1) trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve months; (2) if the underlying security is a “covered security” as defined under Section 18(b)(1)(A) of the Securities Act of 1933: (i) the market price per share of the underlying security has been at least \$3.00 for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation for listing and trading. For purposes of this Interpretation .01(b)(2)(A), the market price of such underlying security is measured by the closing price reported in the primary market in which the underlying security is traded; however, (ii) the requirements set forth in clause (i) will be waived during the three

Exchange Rule 4.3, Interpretation and Policy .06(b)(2).¹²

The continued listing criteria in proposed Exchange Rule 4.4, Interpretation and Policy .06(c) will allow the Exchange to suspend opening transactions in options on Commodity-Based Trust shares if any crypto asset held by the Commodity-Based Trust (A) no longer has an average daily market value of at least \$700 million over the last 12 months, as determined by the Exchange on a monthly basis; or (B) no longer underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG. The Exchange states that requiring the average daily market value criterion to be met on a monthly basis is reasonable given that the Exchange believes that it is unlikely that a crypto asset with an average daily market value of at least \$700 million over the previous twelve months would fail to meet that standard as a result of trading over a relatively short period of time.¹³

Options on Commodity-Based Trust shares also will be subject to the continued listing standards in the Exchange’s rules that are applicable to

days following an underlying security’s initial public offering day if the underlying security has a market capitalization of at least \$3 billion based on upon the offering price of its initial public offering, in which case options on the underlying security may be listed and traded starting on or after the second business day following the initial public offering day; (B) If the underlying security is not a “covered security”, the market price per share of the underlying security has been at least \$7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

¹² Exchange Rule 4.3, Interpretation and Policy .06(b)(2) states that the Units must be available for creation or redemption each business day from or through the issuing trust, investment company, commodity pools or other issuer in cash or in kind at a price related to net asset value, and the issuing trust, investment company, commodity pools or other issuer is obligated to issue Units in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the, the issuing trust, investment company, commodity pools or other issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver the investment assets and/or cash as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of Units which underlie the option as described in the Units’ prospectus.

¹³ See Amendment No. 1 at 10. For example, the Exchange states that if a crypto asset has a market capitalization of \$900 million and traded at that market capitalization for 15 days in a 20-day trading month, the crypto asset could lose a substantial amount of its value (up to 88%) and still meet the criteria. See *id.*

³ See Securities Exchange Act Release No. 104904 (Feb. 27, 2026), 91 FR 10640.

⁴ Amendment No. 1 corrects an erroneous proposed change to a cross-reference in Exchange Rule 4.4, Interpretation and Policy .06, but makes no substantive changes to the proposal. Because Amendment No. 1 is technical in nature, it is not subject to notice and comment.

⁵ See Exchange Rule 4.3, Commentary .06(a)(6). Exchange Rule 4.3, Commentary .06(a)(6) defines the term “crypto asset” to mean “an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ‘tokens,’ ‘digital assets,’ ‘virtual currencies,’ and ‘coins’ and that relies on cryptographic protocols.”

⁶ See Amendment No. 1 at 7.

⁷ See proposed Exchange Rule 4.3, Interpretation and Policy .06(a)(6).

options on all Units.¹⁴ Under Exchange Rule 4.4, Interpretation and Policy .06, shares of a Unit approved for options trading would not meet the requirements for continued approval if the Units cease to be an NMS stock or the Units are halted from trading on their primary market. Further, Exchange Rule 4.4, Interpretation and Policy .06(d) (renumbered as Exchange Rule 4.4, Interpretation and Policy .06(e)) would allow the Exchange to consider suspending opening transactions in options on Commodity-Based Trust shares if the Exchange believes that further dealing in the options on the Exchange is inadvisable.¹⁵

The Exchange states that the proposed options on Commodity-Based Trust shares would trade in the same manner as other Unit options and will be subject to the Exchange rules that currently apply to the listing and trading of Unit options, including permissible expirations, strike prices and minimum increments, applicable position and exercise limits, and margin requirements.¹⁶ In addition, the Exchange represents that it has the necessary systems capacity to support the listing and trading of options on shares of qualifying Commodity-Based Trusts.¹⁷

The Exchange states that it believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading the proposed options on Commodity-Based Trust shares, particularly in light of the requirement that each crypto asset held by a Commodity-Based Trust underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.¹⁸ In addition, the Exchange states that it lists and trades options on Units that would qualify for listing as an option on a Commodity-Based Trust under proposed Exchange Rule 4.3, Interpretation and Policy .06(a)(6), and it has not identified any issues with the listing and trading of options on those Units.¹⁹

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as

modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²⁰ Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,²¹ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

The Exchange proposes to amend Exchange Rule 4.3, Interpretation and Policy .06(a)(6) to permit the Exchange to list options on shares of a Commodity-Based Trust that holds multiple crypto assets, provided that the Commodity-Based Trust meets certain requirements, as described above. The proposal will allow the Exchange to list options on shares of these Commodity-Based Trusts without further approval from the Commission, thereby permitting the Exchange to list these options soon after a U.S. securities exchange that is the primary listing market for the Commodity-Based Trust lists the underlying Commodity-Based Trust shares. Permitting the listing and trading of these options on the Exchange will provide investors with an additional vehicle for gaining and hedging exposure to the underlying Commodity-Based Trust shares. The Commission recently approved proposals by Nasdaq ISE, LLC, NYSE American LLC, and NYSE Arca, Inc., to establish listing standards for options on shares of Commodity-Based Trusts that hold multiple crypto assets.²²

Options on shares of Commodity-Based Trusts that hold multiple crypto assets will be subject to the same initial and continued listing requirements for options on Commodity-Based Trusts that hold a single crypto asset except that each crypto asset that a Commodity-Based Trust holds must (A) have an average daily market value of at least \$700 million over the last 12 months; and (B) underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing

agreement, whether directly or through common membership in ISG. The requirements in proposed Exchange Rule 4.3, Interpretation and Policy .06(a)(6) are designed to help ensure that each of the crypto assets that a Commodity-Based Trust holds is sufficiently liquid that the creation and redemption process for shares of the Commodity-Based Trust will operate without disruption and that Commodity-Based Trust shares will be available to options market makers and other market participants that may use Commodity-Based Trust shares to hedge their positions. The Exchange will consider suspending opening transactions in Commodity-Based Trust share options if the requirements in proposed Exchange Rule 4.3, Interpretation and Policy .06(a) are no longer satisfied.²³

The Exchange states that it believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading the proposed options on Commodity-Based Trust shares.²⁴ As discussed above, each crypto asset held by a Commodity-Based Trust must underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.²⁵ This requirement, in addition to the Exchange's existing surveillance procedures, should assist the Exchange in investigating suspected manipulations or other trading abuses in Commodity-Based Trust share options.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁶ that the proposed rule change (SR-CBOE-2026-020), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07037 Filed 4-10-26; 8:45 am]

BILLING CODE 8011-01-P

¹⁴ See *id.*

¹⁵ See *id.* at 10–11.

¹⁶ See *id.* at 11.

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See *id.*

²⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²¹ 15 U.S.C. 78b(f)(5).

²² See Securities Exchange Act Release Nos. 105072 (Mar. 24, 2026), 91 FR 14894 (Mar. 27, 2026); 105134 (Apr. 1, 2026); and 105133 (Apr. 1, 2026).

²³ See proposed Exchange Rule 4.4, Interpretation and Policy .06(c).

²⁴ See Amendment No. 1 at 11.

²⁵ See proposed Exchange Rule 4.3, Interpretation and Policy .06(a)(6).

²⁶ 15 U.S.C. 78s(b)(2).

²⁷ 17 CFR 200.30-3(a)(12).

SMALL BUSINESS ADMINISTRATION**Reporting and Recordkeeping Requirements Under OMB Review****AGENCY:** Small Business Administration.**ACTION:** 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before May 13, 2026.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “Small Business Administration”; “Currently Under Review,” then select the “Only Show ICR for Public Comment” checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at Shauniece.Carter@sba.gov; (202) 935-6942, or from www.reginfo.gov/public/do/PRAMain.

SUPPLEMENTARY INFORMATION: SBA guarantees bid, payment, and performance bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. SBA’s guarantee, authorized pursuant to part B of title IV of the Small Business Investment Act of 1958, 15 U.S.C. 694a *et seq.*, gives Sureties an incentive to provide bonding for small businesses and thereby assists small businesses in obtaining greater access to contracting opportunities. SBA’s guarantee is an agreement between a Surety and SBA that SBA will assume a certain percentage of the Surety’s loss should a contractor default on the underlying contract.

This information collection currently consists of SBA Forms 990, 991, 994, 994B, 994F, and 994H. This information collection is being renewed and revised to better align with SBA regulatory changes, and surety bond industry practices. Additionally, this information

collection creates SBA Forms 900 and 901. The new forms both serve the purpose of streamlining SBA’s surety bond guarantee agreement procedures and to improve and clarify program participation requirements. These form revisions and additions will result in greater clarity and understanding for small businesses and surety bond companies applying for assistance.

New SBA forms: SBA Form 900, “Prior Approval Surety Bond Surety Participation Agreement”, and SBA Form 901, “Preferred Surety Bond Surety Participation Agreement”, are new SBA forms created for the purpose of surety bond company and surety bond agency participation in SBA’s Surety Bond Guarantee program. The forms outline authorities granted by SBA to the signing business and the requirements of participation in the program. The only information collected in the forms are the signature, name, title, and date of signature for the individual signing on behalf of the business requesting to participate in SBA’s Surety Bond Guarantee program. By creating these two forms, SBA is (1) enabling future streamlining enhancements to the program to reduce application submission burdens, and (2) certifying that every participating surety bond company understands the program’s participation requirements according to their type of participation.

SBA intends to update SBA Form 990, Part II, to include a question for Quick Bond applications on whether the application project includes hazardous materials, asbestos, or timber sales over SBA’s allowed amount. This question will enable SBA to further streamline and automate application reviews by collecting a key factor in the approval process currently obtained through manual review of uploaded documents. SBA intends to update SBA Form 990, Part III, with a subsection B titled “SBA Bonding Line Request”. This information collection already exists as SBA Form 994B, Part III. By moving the information collection to SBA Form 990, SBA is aligning the request for SBA approval within the form intended for agreements between SBA and the participating surety bond company. SBA intends to update SBA Form 990, Part IV, with clarification language in field 1, “Bond Type”. SBA intends to update SBA Form 990, Part V, with clarification language in the certification text and the addition of the “SBA Approval Number” field. These updates do not create additional information collection since the SBA Approval Number field is produced by SBA. SBA intends to update the Terms and

Conditions section to align with the addition of SBA Form 900.

SBA intends to update SBA Form 991 instructions as well as fields 4, 5, 6, and 10 for language clarifications. The clarifications do not change information collected in the form.

SBA intends to update SBA Form 994, field 14 and Part 2 instruction, with a clarification instruction. Part 2 of this form collects information on the applicant business individual owners, with fields for up to three individuals’ entries. When one of these fields is revised, all three are revised. SBA intends to update SBA Form 994, fields 21, 34, 47 and Part III field 10 with the addition of country to the address. This update is required to improve compliance with SBA policy updates on citizenship eligibility and Executive Order 14159. SBA intends to update SBA Form 994, fields 26, 39, and 52 to comply with OMB’s Statistical Policy Directive 15. SBA intends to add SBA Form 994, fields 27, 40, and 53 to collect information regarding economic status of the applicant business’ individual owners. This information collection improves SBA’s ability to verify applicant compliance with economic status requirements when seeking a ninety percent guarantee under economically disadvantaged status. SBA intends to update SBA Form 994, Part III field numbering to conform the part to the rest of the form. SBA intends to update SBA Form 994, Part III fields 1, 5, 12, and 13 for language clarification. SBA intends to update SBA Form 994, Part II fields 14, 15, and 20 to add fields for second obligee entries. The new fields provide designated space for “dual obligee” scenarios that were difficult for applicant businesses to include in the current form. This information collection is not new but organizes and clarifies the field space for applicants. SBA intends to update SBA Form 994, Part III field 20 with language clarification of field response options and add a new option. This information collection update clarifies the meanings of response options, and the additional option enables greater statistical clarity. This update does not increase information collection for applicants. SBA intends to update SBA Form 994, Part V field 1 with clarification language and removing fields regarding legal permanent resident status. This update is required to improve compliance with SBA policy updates on citizenship eligibility and Executive Order 14159. SBA intends to update SBA Form 994 submission instructions with clarification language and numbering.

SBA intends to update SBA Form 994B, Part I fields 1 and 2 by adding “within last 5 years” to increase clarification of the fields. Additionally, field 2 is being revised from “work program” to “total backlog” to increase clarification as well. SBA intends to remove SBA Form 994B, Part III in its entirety since it is being moved to SBA Form 990 (as explained above). SBA intends to update SBA Form 994B, Surety’s Review certification language to align with the addition of SBA Form 900 and with the other forms submitted by surety bond companies. SBA intends to update SBA Form 994B, Surety’s Review field 1 to state “Attorney In Fact Signature” for clarification.

SBA does not intend to update SBA Form 994F with any revisions.

SBA intends to update SBA Form 994H, Part D by adding “SBA Claim Approval Number” field. This update does not create additional information collection since the SBA Claim Approval Number field is produced by SBA. SBA intends to update SBA Form 994H, Part E instructions with clarification language. SBA intends to update SBA Form 994H, Part H certification language for clarification and to align with the addition of SBA Forms 900 and 901. SBA intends to update SBA Form 994H, “Instructions and Clarifications of Selected Form 994H Items” section with additional information on how to access the form online.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

OMB Control Number: 3245–0007.

Title: Surety Bond Guarantee Assistance.

Description of Respondents: Small businesses, surety bond companies, and contract owners.

SBA Form Number: SBA Forms 900, 901, 990, 991, 994, 994B, 994F, 994H.

Estimated Number of Respondents: 3,949.

Estimated Annual Responses: 36,885.

Estimated Annual Hour Burden: 9,369.

Shauniece Carter,

Interim Agency Clearance Officer.

[FR Doc. 2026–07113 Filed 4–10–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21484 and #21485; Tennessee Disaster Number TN–20032]

Administrative Declaration of a Disaster for the State of Tennessee

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative declaration of a disaster for the state of Tennessee dated April 7, 2026.

Incident: 2026 Severe Winter Storm Fern.

DATES: Issued on April 7, 2026.

Incident Period: January 22, 2026 through January 27, 2026.

Physical Loan Application Deadline Date: June 8, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: January 7, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator’s disaster 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 Counties: Hardin.

Contiguous Counties:

Tennessee: Chester, Decatur,

Henderson, McNairy, Wayne.

Alabama: Lauderdale.

Mississippi: Alcorn, Tishomingo.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere.	
<i>For Economic Injury:</i>	
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 physical damage is 21484B and for economic injury is 214850.

The states which received an SBA Administrative declaration are Tennessee, Alabama, and Mississippi.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–07071 Filed 4–10–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21486 and #21487; Louisiana Disaster Number LA–20014]

Administrative Disaster Declaration of a Rural Area for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative disaster declaration of a rural area for the state of Louisiana dated April 8, 2026.

Incident: Louisiana Severe Winter Storm.

DATES: Issued on April 8, 2026.

Incident Period: January 23, 2026 through January 27, 2026.

Physical Loan Application Deadline Date: June 8, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: January 8, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:

Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's disaster declaration of a rural area applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or in person at 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 Parish: West Carroll.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21486B and for economic injury is 214870.

The state which received an SBA Administrative rural declaration is Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026-07070 Filed 4-10-26; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No.: FAA-2026-3038; Summary Notice No.-2026-11]

Petition for Exemption; Summary of Petition Received; Rupperecht Law P.A.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 4, 2026.

ADDRESSES: Send comments identified by docket number [FAA-2026-3038] using any of the following methods:

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

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

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for

accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267-2928, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2026-3038.

Petitioner: Rupperecht Law P.A.

Section(s) of 14 CFR Affected:

§ 47.15(c).

Description of Relief Sought:

Rupperecht Law P.A. (FPL) seeks relief to allow the firm, acting as the authorized legal representative, to request and be assigned U.S. registration numbers (N-numbers) on behalf of clients who are importers, distributors, or sellers of unmanned aircraft systems (UAS), even though these clients are not the original manufacturers of the aircraft.

[FR Doc. 2026-07098 Filed 4-10-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No.: FAA-2025-4749; Summary Notice No.-2026-10]

Petition for Exemption; Summary of Petition Received; HALO Flight, Inc.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 4, 2026.

ADDRESSES: Send comments identified by docket number FAA–2025–4749 using any of the following methods:

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

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

- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nia Daniels, (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, at 202–267–9677.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2025–4749.

Petitioner: HALO Flight, Inc.

Sections of 14 CFR Affected:

§§ 43.3(a), 43.3(g), and 135.443(b)(3).

Description of Relief Sought: HALO Flight, Inc. petitions for an exemption

from Title 14 Code of Federal Regulations §§ 43.3(a), 43.3(g), and 135.443(b)(3) that would allow for HALO certificated pilots, who are not mechanics, to be authorized to perform limited maintenance and preventative maintenance procedures on aircraft at remote locations, while away from maintenance personnel. This would allow HALO certificated pilots to replace defective safety wiring or cotter keys, replenish hydraulic fluid in the hydraulic reservoir, replace and service batteries, and remove, check, and replace magnetic chip detectors. This exemption would also authorize HALO pilots, who perform such maintenance, to make required logbook entries.

[FR Doc. 2026–07097 Filed 4–10–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Petition for Authorization To Exceed Mach 1

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of decision to grant an authorization to exceed Mach 1.

SUMMARY: This notice summarizes the petition Hermeus Corporation submitted to FAA requesting a special flight authorization as provided for in FAA regulations. The notice also provides for public awareness of FAA’s decision to grant Hermeus Corporation’s request. FAA is not requesting comments on the petition or FAA’s decision regarding the petition because a special flight authorization petition to exceed Mach 1 follows a separate regulatory process.

DATES: The grant of the special flight authorization to exceed Mach 1 is effective April 9, 2026.

FOR FURTHER INFORMATION CONTACT: David Senzig, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; 781–238–7034, david.a.senzig@faa.gov.

SUPPLEMENTARY INFORMATION:

Petitioner: Hermeus Corporation.

Applicable Sections of 14 CFR:

Sections 91.817 and 91.818.

Description of Relief Sought: Hermeus Corporation seeks relief to allow certain flight tests to exceed Mach 1.

On January 12, 2026, Hermeus Corporation, Atlanta, GA (Hermeus),

petitioned FAA to allow Hermeus to operate a civil aircraft that is expected to exceed Mach 1 speeds during flight testing. Specifically, Hermeus requested to conduct developmental flight test operations of an experimental aircraft, the Quarterhorse Mark 2.1 (Mk 2.1) Unmanned Aircraft System (UAS), over the White Sand Missile Range (WSMR) inside Restricted Areas R–5111 A & B and R–5107 B located in New Mexico. The petitioner requested authorization for up to seven supersonic test flights by December 31, 2026. The proposed operations would occur at or above 30,000 ft Mean Sea Level.

To satisfy its environmental requirements, in a decision dated March 27, 2026, FAA relied on and adopted the Department of the Army’s *Environmental Impact Statement (EIS) for Development and Implementation of Range-Wide Mission and Major Capabilities at White Sands Missile Range (WSMR), New Mexico, March 2010*, which is the foundational document for the Department of the Army’s Record of Environmental Consideration for the proposed action. FAA determined that proposed supersonic test flights would not significantly affect the quality of the human environment.

FAA finds the request by the petitioner is well within the intent of 14 CFR 91.818. As such, FAA has decided to grant this Special Flight Authorization to Exceed Mach 1. Authority to exceed Mach 1 during the testing of the Hermeus Mk 2.1 experimental aircraft is limited to the conditions and limitations stated in the special flight authorization.

FAA’s decision to grant a special flight authorization in response to Hermeus’ petition and the applicable FAA environmental review document is available on FAA’s website. FAA is posting grants of special flight authorizations and applicable FAA environmental review documents. These documents may be found at: https://www.faa.gov/about/office_org/headquarters_offices/apl/aee/env_policy/sfa_supersonic.

Issued in Washington, DC, on April 9, 2026.

David Senzig,

Acting Manager, Noise Division, Office of Environment and Energy, Noise Division (AEE–100).

[FR Doc. 2026–07121 Filed 4–10–26; 8:45 am]

BILLING CODE 4910–13–P



FEDERAL REGISTER

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Part II

Environmental Protection Agency

42 CFR Part 257

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy/CCRMU Amendments; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA-HQ-OLEM-2020-0107; FRL-7814.3-01-OLEM]

RIN 2050-AH39

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy/CCRMU Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; public hearing.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing several revisions to the existing federal CCR regulations, including exempting CCR dewatering structures and modifying the legacy coal combustion residual (CCR) surface impoundment and CCR management unit provisions. Additionally, EPA is proposing to establish a new compliance pathway that allows for site-specific considerations during permitting regarding the groundwater monitoring points of compliance, the cleanup levels for corrective action, the appropriate closure requirements, closure timeframes, and allowing CCR extraction for beneficial use during the post-closure care period. The Agency is also proposing to revise the definition of beneficial use by eliminating the requirement for an environmental demonstration for the non-roadway use of more than 12,400 tons of unencapsulated CCR on land, as well as proposing a definition of CCR storage pile, and proposing to exclude specific beneficial uses from federal CCR regulations. Lastly, EPA is providing notice that EPA will reopen the public comment period for the Federal CCR permit program proposed rule, published on February 20, 2020, for a period of 30 days in a future separate action.

DATES:

Comments due: Comments on this action must be received on or before June 12, 2026.

Public hearing: EPA will hold an online (*i.e.*, virtual) public hearing on May 28, 2026. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: You may send comments on this action, identified by Docket ID No. EPA-HQ-OLEM-2020-0107, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our

preferred method). Follow the online instructions for submitting comments. A plain language summary of the proposed rule is also available on the Federal eRulemaking Portal.

- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management (OLEM) Docket, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

- *Hand Delivery or Courier (by scheduled appointment only):* 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.–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.

The public hearing will be held online (*i.e.*, virtually). Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT:

Taylor Holt, Office of Resource Conservation and Recovery, Waste Identification, Notice, and Generators Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304T, Washington, DC 20460; telephone number: (202) 566-1439; email address: holt.taylor@epa.gov. For questions concerning the beneficial use provisions discussed in Unit IV.C. of this preamble, contact Tracy Atagi, Office of Resource Conservation and Recovery, Waste Identification, Notice, and Generators Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304T, Washington, DC 20460; telephone number: (202) 566-0511; email address: atagi.tracy@epa.gov. For more information on this rulemaking please visit <https://www.epa.gov/coal-combustion-residuals>.

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List of Acronyms

ACAA American Coal Ash Association
 AEP American Electric Power
 ARAR Applicable or Relevant and Appropriate Requirement
 BH Berkshire Hathaway
 CAMA Coal Ash Management Act
 CARA Corrective Action/Risk Assessment
 CBI Confidential Business Information
 CCIG Cross-Cutting Issues Group
 CCR coal combustion residuals
 CCRMU coal combustion residuals management unit
 CERCLA Comprehensive Environmental Response, Compensation, and Liability Act
 CFR Code of Federal Regulations
 CSM Conceptual Site Model
 EEI Edison Electric Institute
 EPA Environmental Protection Agency
 F.A.C. Florida Administrative Code
 FER facility evaluation report
 FR **Federal Register**
 HELP Hydrologic Evaluation of Landfill Performance
 HSWA Hazardous and Solid Waste Amendments
 ICR Information Collection Request
 IEPA Illinois Environmental Protection Agency
 LEAF Leaching Environmental Assessment Framework
 MCL maximum contaminant level
 MSWLF Municipal Solid Waste Landfill
 NAICS North American Industry Classification System
 NCDEQ North Carolina Department of Environmental Quality
 N.C.G.S. General Statutes of North Carolina
 NPDES National Pollution Discharge Elimination System
 NRECA National Rural Electric Cooperative Association
 NTTAA National Technology Transfer and Advancement Act
 OMB Office of Management and Budget
 PRA Paperwork Reduction Act
 RCRA Resource Conservation and Recovery Act
 RIA Regulatory Impact Analysis
 SCDHEC South Department of Health and Environmental Control
 TDEC Tennessee Department of Environment and Conservation
 TVA Tennessee Valley Authority
 USWAG Utility Solid Waste Activities Group
 UV Ultraviolet
 WIIN Water Infrastructure Improvements for the Nation

I. Public Participation

A. Written Comments

Submit your comments on this action, identified by Docket ID No. EPA-HQ-OLEM-2020-0107, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Do

not submit any comments on the Federal CCR permit program proposed rule to this docket; comments on that action must be submitted during the reopened comment period to Docket ID No. EPA-HQ-OLEM-2019-0361 in accordance with the future **Federal Register** document. 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.

B. Participation in the Virtual Public Hearing

EPA will hold a virtual public hearing on May 28, 2026. The hearing will convene at 9:00 a.m. Eastern time (ET) and will conclude at 6:00 p.m. (ET).

EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the hearing, please use the online registration form available on EPA's CCR website (<https://www.epa.gov/coal-combustion-residuals>) or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to register to speak at the hybrid hearing. The last day to pre-register to speak at the hearing will be May 26, 2026. On May 26, 2026, EPA will post a general agenda for the hearing on EPA's CCR website (<https://www.epa.gov/coal-combustion-residuals>).

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, requests to speak will be taken the day of the hearing according to the procedures specified on EPA's CCR website (<https://www.epa.gov/coal-combustion-residuals>) for this hearing.

EPA will make every effort to accommodate all speakers who register or join virtually, although preferences on speaking times may not be able to be fulfilled.

Each commenter will have five (5) minutes to provide oral testimony. EPA encourages commenters to provide EPA with a copy of their oral testimony electronically by emailing it to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. EPA also recommends submitting the text of your oral comments as written comments to the rulemaking docket. If EPA is anticipating a high attendance, the time allotment per testimony may be shortened to no less than three (3) minutes per person to accommodate all those wishing to provide testimony and who have pre-registered. While EPA will make every effort to accommodate all speakers who do not preregister, opportunities to speak may be limited based upon the number of pre-registered speakers. Therefore, EPA strongly encourages anyone wishing to speak to preregister. Participation in the public hearing does not preclude any entity or individual from submitting a written comment.

EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking.

Please note that any updates made to any aspect of the hearing will be posted online at EPA's CCR website at <https://www.epa.gov/coal-combustion-residuals>. While EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of an interpreter, translator, or special accommodations such as audio transcription or closed captioning, please pre-register for the hearing with the person listed in the **FOR FURTHER INFORMATION CONTACT** section and describe your needs by May 14, 2026. EPA may not be able to arrange accommodations without advance notice. Registrants should notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section and

indicate on the registration form any such needs when they pre-register to speak.

II. General Information

A. Does this action apply to me?

This rule may be of interest to electric utilities and independent power producers that fall within the North American Industry Classification System (NAICS) code 221112. The reference to NAICS code 221112 is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be affected by this action. This discussion lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not described here could also be affected. To determine whether your entity is affected by this action, you should carefully examine the applicability criteria found in § 257.50 of title 40 of the Code of Federal Regulations (CFR). 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 contemplating?

EPA is proposing to amend the regulations governing the disposal of CCR in landfills and surface impoundments and defining the beneficial use of CCR, codified in 40 CFR part 257, subpart D (CCR regulations). First, the Agency is proposing to exempt CCR dewatering structures from the CCR regulations under part 257 and to establish a new compliance pathway that allows for site-specific considerations during permitting. This pathway incorporates permit flexibilities for CCR units complying with the federal CCR groundwater monitoring, corrective action, and closure requirements under a federal or participating-state CCR permit. Additionally, EPA is proposing to clarify the deadline by which new CCR landfills and CCR surface impoundments (which includes any lateral expansions) must comply with the requirement to establish background concentrations.

EPA is also proposing to amend the regulations governing the disposal of CCR in CCR surface impoundments that no longer receive CCR but contained both CCR and liquids on or after October 19, 2015 and are located at inactive facilities (*i.e.*, legacy CCR surface impoundments) and the regulations governing the disposal of CCR in inactive and closed landfills, in closed

surface impoundments and on land where noncontainerized accumulations of CCR are received, placed, or otherwise managed (*i.e.*, CCR management units or CCRMU). Specifically, the Agency is proposing to: (1) Broaden the criteria for the closure by removal certification for legacy CCR surface impoundments; (2) Broaden the deferral criteria for legacy CCR surface impoundments that have completed closure under a regulatory authority prior to November 8, 2024; and (3) Amend the scope of the CCRMU regulations.

Furthermore, EPA is proposing to revise several provisions related to CCR beneficial use. Specifically, the Agency is proposing to revise the definition of beneficial use by removing the fourth criterion that requires an environmental demonstration for the non-roadway use of more than 12,400 tons of unencapsulated CCR on land, proposing a definition of CCR storage pile, and excluding the following beneficial uses from federal CCR regulations: (1) CCR used in cement manufacturing at cement kilns, (2) Flue gas desulfurization (FGD) gypsum used in agriculture, and (3) FGD gypsum used in wallboard.

Lastly, EPA is providing notice that in a future separate action identified by Docket ID No. EPA-HQ-OLEM-2019-0361, EPA will reopen the public comment period for the Federal CCR permit program proposed rule (85 FR 9940, entitled *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Federal CCR Permit Program*) for a period of 30 days. Note that comments on the Federal CCR permit program proposed rule must be submitted to Docket ID No. EPA-HQ-OLEM-2019-0361 during the future reopening of the comment period to be considered.

EPA intends that the provisions of the rule be severable. In the event that any individual provision or part of the rule is invalidated, EPA intends that this would not render the entire rule invalid, and that any individual provisions that can continue to operate will be left in place.

In this proposal, EPA is not reconsidering, proposing to reopen, or otherwise soliciting comment on any other provisions of the existing CCR regulations beyond those specifically identified in this proposal. 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 or proposed change to the

identified provisions, these descriptions do not reopen any of the described provisions. EPA will not respond to comments submitted on any issues other than those specifically identified in this proposal, and such comments will not be considered part of the rulemaking record.

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

EPA is publishing this rulemaking under the authority of sections 1008(a)(3), 2002(a), 4004, and 4005(a), (d) of the Solid Waste Disposal Act of 1965, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, 42 U.S.C. 6907(a), 6912(a), 6944, 6945(a) and (d).

D. What are the incremental costs and benefits of this action?

EPA establishes the requirements under RCRA sections 1008(a)(3) and 4004(a) without taking cost into account. See, *Utility Solid Waste Activities Group, et al. v. EPA (USWAG)* 901 F.3d 414, 448–49 (D.C. Cir. 2018). The following cost estimates are presented in the Regulatory Impact Analysis (RIA) and summarized in this preamble for compliance with OMB Circular A–4 and E.O. 12866. The requirements in this rule do not rely on these cost estimates.

The RIA estimates that the annualized cost savings of this action will be approximately:

- \$174–\$194 million per year when discounting at 3%; and
- \$232–\$262 million per year when discounting at 7%.

The RIA estimates that the annualized change in benefits of this action will be approximately:

- A \$5 million decrease per year when discounting at 3%; and
- A \$4–\$2 million decrease when discounting at 7%.

Overall, the RIA estimates that the net annualized cost savings and benefits, net of disbenefits, of this action will be \$169–\$189 million per year when discounting at 3%, and \$229–\$260 million when discounting at 7%.

Further information on the economic effects of this action can be found in Unit VII. of this preamble.

III. Background

A. 2015 CCR Rule

On April 17, 2015, EPA finalized national minimum criteria for the disposal of CCR as solid waste under

subtitle D of RCRA titled, “Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals from Electric Utilities” (80 FR 21302) (2015 CCR Rule). The 2015 CCR Rule, codified in subpart D of part 257 of title 40 of the CFR, established regulations for existing and new CCR landfills, existing and new CCR surface impoundments, including all lateral expansions of these CCR units. The 2015 CCR Rule also imposed requirements on inactive surface impoundments at active facilities but exempted inactive surface impoundments at inactive facilities. The requirements consist of location restrictions, design and operating criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, recordkeeping, notification, and website posting requirements.

At the time of the promulgation of the 2015 CCR Rule, EPA did not have the authority to issue CCR permits, authorize state CCR permit programs, or otherwise provide the oversight typically performed by a regulatory agency or permit authority. Therefore, the 2015 CCR Rule established nationwide requirements for CCR units under a self-implementing regulatory structure. Due to the lack of regulatory oversight and the limitations of a national risk assessment, as described in Unit III.D. below, the 2015 CCR Rule did not allow for site-specific variances from the regulations or tailored requirements based on site-specific characteristics. Instead, the 2015 CCR Rule relied on certifications by qualified professional engineers and web posting requirements as a substitute for regulatory oversight in certain cases.

As discussed in Unit IV.B. of this preamble, the self-implementing framework and national requirements have resulted in a one-size-fits-all approach to compliance with the federal CCR requirements. For example, site-specific revisions to the technical standards are not permissible under the 2015 CCR Rule due to the lack of regulatory oversight. Likewise, as discussed in Unit III.B.1.b. of this preamble, during the development of the 2015 Rule, EPA rejected requests to allow regulated entities to establish alternative groundwater standards for constituents without a federal maximum contaminant level (MCL) established under §§ 141.62 and 141.66 and referenced in § 257.95(h)(1) due to a lack of regulatory oversight and scientific expertise. Consequently, the 2015 CCR Rule represents a regulatory structure that met the RCRA standard of no reasonable probability of adverse

effect to health or the environment within the constraints of the law at that time. However, as discussed in further detail in Units III.D. and IV.B. of this preamble, the self-implementing framework is no longer the only, nor the best, regulatory structure available.

B. 2023 Legacy Proposed Rule

On May 18, 2023, EPA proposed revisions to the CCR regulations (88 FR 31982) (“the Legacy Proposed Rule” or “Legacy Proposal”). These revisions included establishing regulations specifying that legacy CCR surface impoundments are subject to 40 CFR part 257, subpart D and that owners or operators of legacy CCR surface impoundments must comply with all the appropriate requirements applicable to inactive CCR surface impoundments at active facilities. In addition, EPA proposed to establish requirements to address the risks from certain exempt solid waste management that involves the direct placement of CCR on the land (*i.e.*, CCRMU). EPA proposed to extend a subset of the existing requirements in part 257, subpart D to CCRMU, which was proposed to include CCR surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule, inactive CCR landfills, and other areas where CCR is managed directly on the land. EPA proposed to apply the CCRMU provisions to all active CCR facilities and all inactive facilities with a legacy CCR surface impoundment.

C. 2024 Legacy Final Rule

On May 8, 2024, EPA established regulations applicable to inactive surface impoundments at inactive facilities (legacy CCR surface impoundments or legacy impoundments) under 40 CFR part 257, subpart D (89 FR 38950) (Legacy Final Rule). EPA also established regulations requiring owners and operators of legacy CCR surface impoundments to comply with the following requirements in the existing CCR regulations: installation of a permanent marker, history of construction, hazard potential classification, structural stability and factors of safety assessments, emergency action plan, air criteria, inspections, groundwater monitoring and corrective action, closure and post-closure care, recordkeeping, and notification and CCR website requirements. EPA further established new compliance deadlines for these newly applicable regulatory requirements to ensure the owners or operators of these units have time to come into compliance.

In addition, the Legacy Final Rule established requirements to address the

risks from solid waste management activities that involves the direct placement of CCR on the land. EPA extended a subset of the existing requirements in 40 CFR part 257, subpart D to CCRMU, which are CCR surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule, inactive CCR landfills, and other areas where CCR is managed directly on the land. These additional requirements apply to all active CCR facilities, all inactive facilities with legacy CCR surface impoundments, and those active facilities (*i.e.*, facilities producing electricity for the grid as of October 19, 2015) that ceased placing CCR in onsite CCR units prior to the effective date of the 2015 CCR Rule.

Owners or operators of some legacy CCR surface impoundments and CCRMU that had closed under a regulatory authority are eligible for certain relief from the established regulatory requirements provided they met specific criteria. Owners or operator of legacy CCR surface impoundments who certify that prior to November 8, 2024, they completed closure by removal of the impoundment, consistent with the standards in § 257.102(c), are subject to no further requirements under the Legacy Final Rule for that unit. Similarly, for legacy CCR surface impoundments and CCRMU that completed a closure prior to November 8, 2024, and can meet the criteria in § 257.101(g), compliance with the closure criteria in § 257.102 is deferred until a permitting authority can evaluate the previous closure to determine if it met the appropriate section of the § 257.102 closure standard. Owners or operators of these units are still required to comply with rest of the applicable CCR regulations.

Owners or operators of an active facility or a facility with a legacy CCR surface impoundment are required to conduct a facility evaluation to identify and delineate any CCRMU at the facility and document the findings in two reports, FER Part 1 and FER Part 2. See § 257.75(b). The FER Part 1 documents the thorough review of readily and reasonably available records regarding where CCR was either routinely and systematically placed on land, or where facility activities otherwise resulted in measurable accumulations of CCR on land. The FER Part 2 documents the conclusions of a physical evaluation of the facility to address any data and information gaps identified in FER Part 1. Together, the FER Parts 1 and 2 give a complete picture of the historic use, placement and the status of CCR at the facility, ultimately identifying any

CCRMU of 1 ton or greater onsite. After identifying the regulated CCRMU through the facility evaluation, owners or operators of CCRMU must comply with the existing requirements in 40 CFR part 257, subpart D for groundwater monitoring, corrective action (where necessary), and in certain cases, closure, and post-closure care requirements.

D. New Information Received Since Publication of the Legacy Final Rule

Since publication of the Legacy Final Rule, EPA received information from numerous companies and representatives of industry regarding the scope of the deferrals within the Legacy Final Rule, the scope of the CCRMU universe, challenges complying with the existing CCR requirements, and requests for regulatory changes.¹ Several of these letters and materials critiqued the findings or applicability of the 2014 and 2024 Risk Assessments conducted by EPA to support the 2015 CCR Rule and the Legacy Final Rule, respectively. Most recently, EPA received two reports that critique the Agency's Risk Assessments, which were prepared on behalf of various industry groups.^{2,3}

Throughout the rulemaking process and thereafter, EPA has received comments from industry groups and individual companies criticizing both the 2014 and 2024 Risk Assessments as overly conservative. These comments frequently reference some combination of literature and field data to assert the risks posed by individual units are not as high as those reported in the two risk assessments. The Agency has previously addressed various iterations of these types of comments in the preamble discussions and response to comments documents for both the 2015 CCR Rule and the Legacy Final Rule, and so does not replicate those specific responses here. Instead, the following discussion focuses on the broader theme of these comments, which is that not every CCR unit will pose the same level of risk.

The "Report on Joint Data Analysis" states that it draws on site-specific data from 38 CCR landfills, surface impoundments and CCR management unit fills at 19 stations across nine

states. This report summarizes unit characteristics and groundwater monitoring data, along with data drawn from broader literature, and compared those data against values modeled in the Risk Assessments. The other report, "Technical Evaluation," summarizes a separate effort to re-evaluate the modeling approach for CCRMU fills. This effort involved varying different model inputs used in the screening phase of the 2024 Risk Assessment and evaluating how that altered those initial risk results. Both reports conclude that EPA's Risk Assessments systematically overstate the risk from CCR disposal units and fills, and that it would be more effective and appropriate to assess risks on a site-specific basis. For example, the "Technical Evaluation" emphasized that individual fills are generally smaller than the disposal units regulated in 2015. The 2024 Risk Assessment demonstrated that risks tend to decrease along with size due to the smaller volumes of leachate generated. The fills associated with high-end risks that formed the basis for national regulation tend to be on the larger end of the size spectrum. However, there remains a sizeable fraction of modeled scenarios where smaller units were found to result in no adverse impacts to groundwater quality. EPA has acknowledged there is a lack of data from facilities about the actual distribution of fill sizes across the country. As such, there is potential that the prevalence of these smaller fills were underrepresented in previous modeling.

The 2014 and 2024 Risk Assessments aimed to incorporate the best available data at the time of each assessment. Site-specific data were used where available, supplemented by regional and national data to fill data gaps, to capture the variability of waste management practices, environmental conditions, and receptor behavior. However, it is inevitable that some sources of uncertainty and variability will remain in any risk assessment. To account for this fact, EPA typically considers a "high-end" exposure level to ensure an adequate margin of safety for most of the potentially exposed, susceptible population, or ecosystem. EPA's high-end levels typically fall around the 90th percentile and above, an approach designed to be consistent with both legislative mandates and recommendations from the National Academy of Sciences' National Research Council.⁴

EPA uses a national risk assessment for a particular source or industry category to inform its decision concerning whether a regulatory program is needed or in need of revisions. Both the 2014 and 2024 Risk Assessments were designed to capture the full spectrum of potential disposal scenarios across the country with available data. Decisions about the need for national regulations were based on high-end risks identified from across these scenarios, considered together with damage cases, to ensure that regulations would be consistently protective. Consequently, the 2014 Risk Assessment has served its purpose as EPA used it to inform its decision to create the 2015 CCR Rule creating a Federal CCR regulatory program. EPA relied on the 2024 Risk Assessment to inform its decision to expand the Federal CCR regulations to cover CCRMU.

The Agency acknowledges that these high-end risks may not manifest at every site and concurs that risks associated with individual CCR units may be lower. This is equally true for disposal units, fills, piles, and unencapsulated accumulations on the land for any other stated purpose. However, pinpointing conditions that would lead to reliably lower risks and justify less stringent national standards is complicated by limited site characterization and various factors that could not be reliably modeled at a national level, such as waste disposed below the water table. While this diversity of site conditions creates uncertainty in a national model, it provides a key rationale for the need to design a regulatory program that can account for these site-specific conditions while providing for sufficient regulatory oversight.

Owners or operators of regulated facilities have installed groundwater monitoring networks downgradient of regulated disposal units. Whether prior to or since promulgation of the 2015 CCR Rule, these systems are designed to demonstrate whether a release has occurred. If a release is detected, additional information about the magnitude and extent of the release from the unit and the potential for contamination to spread is required to design a remedial system. That type of broader site characterization typically occurs as part of remedy selection, which most sites have either not yet triggered or completed. Consequently, while industry comments providing further information may lack the types or resolution of data needed to

¹ These materials are available in the docket for this rulemaking.

² Haley Aldrich. 2025. "Report on Joint Data Analysis to Support Revisions to Federal Regulation of Coal Combustion Residuals." Prepared for American Electric Power, Duke Energy Corporation, Southern Company Services Inc., and Vistra Corp., Greenville, SC. September.

³ Gradient. 2025. "Technical Evaluation of the Environmental Protection Agency's 2024 Risk Assessment of CCR Management Units." Prepared for Utility Solid Waste Activities Group and National Rural Electric Cooperative Association. Boston, MA. November.

⁴ U.S. EPA. 2004. "An Examination of EPA Risk Assessment Principles and Practices." EPA/100/B-

04/00. Prepared by the Office of the Science Advisor. Washington, DC. March.

meaningfully update the existing national risk assessments, the submitted data and description of regulatory oversight provide a foundation for revisions to the self-implementing 2015 CCR Rule to add an option for site-specific determinations involving a permitting authority. A number of commenters cited to data drawn from the broader literature, rather than site-specific measurements. While national data is helpful, any further refinement of the existing risk record will likely need to rely on data from individual sites, where more representative data can be reliably compiled.

To address identified risks in the 2014 Risk Assessment, EPA promulgated national requirements under the authorities in sections 1008(a), 4004, and 4005(a) of RCRA. This included detailed, prescriptive requirements for design of groundwater monitoring systems and corrective action programs drawn from the existing 40 CFR parts 264 and 258 regulations. Decades of experience implementing these requirements for a variety of other wastes, under a range of conditions, provided the Agency confidence that similar performance standards would be equally protective for CCR disposal. When EPA later expanded the regulated universe as part of the Legacy Final Rule to include legacy surface impoundments and CCRMU, the Agency promulgated requirements intended to provide comparable standards across the regulated universe.

During these rulemakings, EPA received numerous comments requesting that EPA adopt alternative performance standards that would allow a permit authority, such as a state regulator (or owners or operators of facilities) to “tailor” the requirements to particular site conditions. Many requested EPA adopt particular performance standards found in EPA’s municipal solid waste landfill (MSWLF) regulations in 40 CFR part 258.

Although the 2015 CCR Rule was largely modeled on the MSWLF regulations, as explained in both the proposed and final rules, at the time EPA lacked the authority to establish a program analogous to part 258, which relies on approved states to implement the federal criteria through a permitting program. In addition, in 2015, EPA could not issue permits or enforce any of the CCR regulations. In the absence of a mandated oversight mechanism to ensure that the alternative standards would be technically appropriate, EPA concluded it could not adopt many of the “more flexible” performance standards that commenters requested. Many of these provisions are not tied to

specific performance standards that could be used to readily judge compliance. EPA concluded that allowing individual owners and operators to interpret and implement these provisions in the absence of any mandated oversight mechanism would create too much potential for misinterpretation. Instead, the 2015 CCR Rule was designed to be self-implementing, tied to concrete performance and design standards that must be met, so that the rule could be implemented and compliance demonstrated without any interaction with state or federal regulatory officials.

However, in 2016, the WIIN Act was enacted, establishing new statutory provisions applicable to CCR units, including: (a) Authorizing States to implement the CCR regulations through an EPA-approved permit program; and (b) Authorizing EPA to enforce the regulations and, in certain situations, to serve as the permit authority. In doing so, this legislation provides an opportunity to move away from the “one-size-fits-all” regulatory approach necessitated by the previous statutory structure.

EPA therefore proposes to create an additional regulatory pathway that incorporates new regulatory provisions providing permit authorities the ability to approve certain flexibilities for owners or operators complying with the federal CCR rules under a federal or participating-state CCR permit. The aim of these revisions is to allow a permit authority to establish permit conditions that are better tailored to site conditions. Typically permit authorities can require collection of any additional site data necessary to establish permit conditions, and consequently can develop a better understanding of individual sites than could be achieved in national risk assessments. A refined risk record developed through the permitting process would supersede the previous national assessments. As discussed above, the 2015 CCR Rule was based on high-end risks from across the country, which incorporated regional or national data where site-specific data was unavailable. Consequently, it is expected that a permit authority may determine a set of technical requirements different than those set forth in the national, self-implementing scheme that will achieve the standard of “no reasonable probability of adverse effects on health or the environment” and better account for the site-specific data and risks of individual units and sites. Most provisions discussed throughout this proposal will allow these permit authorities to provide greater flexibility to owners or operators

while ensuring there is no reasonable probability of adverse effects on health or the environment from the regulated units.

This is especially relevant to D.C. Circuit caselaw preserving EPA’s discretion, when supported by evidence in the record, to classify disposal facilities, set standards for disposal, and structure closure proceedings. In *Utility Solid Waste Activities Group v. EPA*, 901 F.3d 414, 425 (D.C. Cir. 2018) (“*USWAG*”), the U.S. Court of Appeals for the D.C. Circuit vacated several provisions of the 2015 CCR rule that authorized the continued operation of unlined and clay-lined impoundments and that exempted legacy CCR surface impoundments, finding portions of the 2015 CCR rule to be promulgated without an adequate record to demonstrate regulatory compliance with RCRA. In particular, the court found it “inadequate under RCRA for the EPA to conclude that a major category of impoundments [(i.e., unlined surface impoundments)] that the agency’s own data show are prone to leak pose ‘no reasonable probability of adverse effects on health or the environment . . . simply because they do not already leak.’” *Id.* at 427. In addition, the court determined that EPA failed to “explain how the [2015 CCR] Rule’s contemplated detection and response could assure ‘no reasonable probability of adverse effects to health and the environment’ at unlined [surface] impoundments,” as well as at “existing impoundments lined with nothing more than compacted soil [i.e., clay-lined surface impoundments].” *Id.* at 431. Similarly, the court found that EPA lacked sufficient rationale to support exempting legacy CCR surface impoundments from the 2015 CCR Rule. *See id.* at 432. Overall, the court’s focus on the Agency’s lack of rationale to support the vacated portions of 2015 CCR Rule does not preclude future changes to EPA’s Part 257 regulations.

Of particular note, while not relevant to the court’s determination that portions of the 2015 CCR Rule were arbitrary and capricious, the court recognized that the WIIN Act provides EPA with “new tools[.]” *Id.* at 437, to address CCR. Most notably, the Administrator may approve qualified state permit programs or other systems of prior approval and conditions under State law—for regulation by the State of CCR units—to operate in lieu of EPA regulation of CCR units in the State. *See* 42 U.S.C. 6945(d)(1)(B) (d)(3). This broad discretion for the Administrator to approve state permit programs contemplates various standards for what triggers closure, what constitutes

adequate protection of the environment, and the sequencing and timeliness of closure procedures based upon a holistic review of environmental concerns.

As stated elsewhere, the WIIN Act, 42 U.S.C. 6945(d), enhances such flexibility as long as any state permit program or other system of prior State approval is in full compliance with the EPA's Part 257, or successor regulations establishing criteria, governing CCR units. 42 U.S.C. 6945(d)(6). This flexibility is unchallenged by the *USWAG* decision as long as, as stated by the court, EPA's regulatory standard for disposal of solid waste "ensure[s] that there is no reasonable probability of adverse effects on health or the environment." See *USWAG*, 901 F.3d at 448–49 ("RCRA's statutory language instructs the EPA to classify a disposal site as a sanitary landfill and not an open dump only 'if there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility.' (emphasis omitted)); see also *Id.* at 437 ("[A]lthough the WIIN Act does not affect the validity of the Rule itself, it does provide the EPA with new tools to pursue its regulatory goals").

Thus, *USWAG* is best understood as rejecting the record at issue in that case as insufficient to defend the standards promulgated. This leaves intact a permitting regime which, buttressed by an adequate demonstration that the "no reasonable probability" standard would be met, could still account for site-specific variability. The record established here and through comments to this proposal may support defining an acceptable level of leakage on a unit- or site-specific basis. Such case-by-case analysis may enable each regulatory authority to opt not to close facilities immediately upon monitoring revealing risks but rather enable owners or operators to flexibly comply with an ongoing monitoring regime which guarantees safety. This discretion is cabined by statute and by the court in *USWAG* in that the Administrator may only approve a state alternative permit program if its standards are at least as protective as the criteria set by the EPA in its corresponding (and successor) regulations. See 42 U.S.C. 6945(d)(1)(C); 40 CFR part 257, subpart D.

In *USWAG* the Court found that EPA had not adequately demonstrated that certain parts of the 2015 regulations adequately met the statutory protectiveness standard in RCRA 4004(a). However, that decision was based on the record EPA used to support its 2015 CCR rule, which was before the court at the time, and

USWAG does not foreclose further evaluation and consideration of risk in regulating in this area. See, e.g., *USWAG*, 901 F.3d at 429 ("EPA has not shown that harmful leaks will be promptly detected; that, once detected, they will be promptly stopped; or that contamination, once it occurs, can be remedied.") Left intact is the interpretation of section 4004(a) as requiring a baseline standard of protection, *but not uniformity in the manner of attainment*, and EPA maintains broad discretion to adopt performance-based criteria based on a record of protectiveness in various state instances. The *USWAG* court merely found that the record then at issue did not explain how the specific groundwater monitoring and corrective actions proposed were sufficient to mitigate the risks proscribed by statute.

In keeping with *USWAG*'s admonition of the insufficient evidence and analysis behind the 2015 CCR Rule, EPA is seeking additional comment and record support regarding the use of evidence-based engineering controls, institutional controls, risk assessments, hydrogeological assessments and monitoring techniques.

Additionally, EPA solicits comment and data regarding alternative closure timelines which holistically consider the harms posed to the environment by standards of closure which may fail to account for site-specific factors. The *USWAG* decision does not foreclose the Agency from designing an alternative regulatory path that defines the circumstances that would "trigger" a case-by-case, site-specific analysis or one that sets a new identifiable standard to guide the Agency or a permitting authority's judgment when operating under that path.

RCRA requires EPA to set minimum criteria for sanitary landfills that prevent harm to either "health or the environment." 42 U.S.C. 6944(a). Thus, commenters should focus on the circumstances that should "trigger" a case-by-case analysis and identify the case-specific scenarios necessitating unique regulatory treatment. EPA's discretion to incorporate such judgments into the general standard of "no reasonable probability of adverse effects" remains intact. And even post closure trigger, EPA retains discretion to determine the timing and sequencing of closure activities based on the record support. This proposal seeks to further facts that point to specific site-based variations which validate and call for the flexible approach to regulatory approval contemplated by the WIIN Act and section 257 authority, as well the interplay between the "new tools"

created by the WIIN Act and the changes to the "default federal regulatory regime," *Waterkeeper Alliance, Inc. v. Regan*, 41 F.4th 654, 662 (D.C. Cir. 2022) that would be sufficient to meet RCRA's "no reasonable probability of adverse effects to human health or the environment" standard.

E. Beneficial Use of CCR

1. May 2000 Regulatory Determination on Fossil Fuel Combustion Wastes

In 2000, EPA published a final regulatory determination that addressed the management of fossil fuel combustion wastes under RCRA. In this regulatory determination, the Agency concluded that regulation as hazardous waste was not warranted for these wastes, which included coal combustion residuals. (65 FR 32214, May 22, 2000).

The 2000 determination also specifically addressed beneficial uses of CCR, acknowledging the significant environmental and economic benefits these uses can provide. Beneficial uses include a range of applications that effectively conserve natural resources and reduce disposal costs. These included construction applications such as cement, concrete, and wallboard, where the materials were encapsulated, thus minimizing exposure risks. The determination also assessed agricultural uses as lime substitutes, revealing lower risk levels than previously anticipated, thereby supporting continued exemption. In the 2000 regulatory determination, EPA states that ". . . we have decided that national regulation under subtitle C or subtitle D is not warranted for any of the other beneficial uses of coal combustion wastes." (65 FR 32221, May 22, 2000)

2. Beneficial Use in the 2015 CCR Rule

On April 17, 2015, EPA finalized the 2015 CCR Rule to regulate the disposal of CCR as solid waste under subtitle D of RCRA (80 FR 21302, April 17, 2015). The 2015 CCR rule established national minimum criteria for classification of solid waste disposal facilities and practices, codified at 40 CFR part 257, subpart D.

In the 2015 CCR final rule, EPA retained the original 2000 Regulatory Determination for CCR that is beneficially used. (80 FR 21329). EPA also established in the final rule a beneficial use definition to distinguish between beneficial use of CCR, which is not subject to federal regulation, and the disposal of CCR, which is subject to regulation under 40 CFR part 257, subpart D (See 80 FR 21347).

The beneficial use definition is comprised of four criteria: (1) The CCR must provide a functional benefit; (2) The CCR must substitute for the use of a virgin material, conserving natural resources that would otherwise need to be obtained through practices such as extraction; (3) The use of the CCR must meet relevant product specifications, regulatory standards, or design standards, when available, and where such specifications or standards have not been established, CCR may not be used in excess quantities; and (4) When unencapsulated use of CCR involves placement on the land of 12,400 tons or more in non-roadway applications, the user must demonstrate and keep records, and provide such documentation upon request, that environmental releases to groundwater, surface water, soil, and air are comparable to or lower than those from analogous products made without CCR, or that environmental releases to groundwater, surface water, soil, and air will be at or below relevant regulatory and health-based benchmarks for human and ecological receptors during use. See: 40 CFR 257.53 and 80 FR 21349–54 (April 15, 2015). In addition, EPA stated in the preamble that “the Agency expects potential users of unencapsulated CCR below this [12,400 ton] threshold to work with the states to determine the potential risks of the proposed use at the site and to adopt the appropriate controls necessary to address the risks.” (80 FR 21353)

3. CCR Rule Litigation Related to Beneficial Use

The 2015 CCR rule was challenged by several different parties, including a coalition of regulated entities and a coalition of environmental organizations. See *USWAG et al v. EPA*, No. 15–1219 (D.C. Cir.).

On September 13, 2017, EPA granted petitions from the Utility Solid Waste Activities Group (USWAG) and AES Puerto Rico LLP, requesting the Agency initiate rulemaking to reconsider certain provisions of the 2015 final rule. In light of that decision, EPA requested that the D.C. Circuit Court of Appeals hold the case in abeyance until the Agency had completed its reconsideration. EPA subsequently requested that the court remand certain provisions of the 2015 CCR rule on the grounds that the Agency was reconsidering the provisions.

Included in that remand request were two sets of provisions related to the beneficial use of CCR: (1) The 12,400-ton threshold in the beneficial use definition, and (2) The requirements for “piles” of CCR located onsite of a utility

and those that are located off-site but destined for beneficial use. On August 21, 2018, the D.C. Circuit Court of Appeals granted EPA’s request to remand the challenged beneficial use provisions back to EPA in order to allow the Agency to complete its administrative reconsideration.

4. Beneficial Use in the 2019 CCR Proposed Rule

On August 14, 2019, EPA published a proposed rule titled “Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Enhancing Public Access to Information; Reconsideration of Beneficial Use Criteria and Piles” (84 FR 40353, August 14, 2019) (2019 CCR proposal). In the 2019 CCR proposed rule, EPA proposed to redefine the criteria for beneficial use of CCR, shifting from a 12,400-ton mass-based numerical threshold to specific location-based criteria as the threshold for requiring an environmental demonstration. This location-based approach aligned with practices observed in state beneficial use programs, which often incorporate location-based restrictions to safeguard sensitive areas (84 FR 40358–60). The rationale for this proposed change stemmed from the need to accurately identify when the use of unencapsulated CCR on the land should require further demonstration that the use does not present a reasonable probability of adverse effects on health or the environment. The previous mass-based threshold, which required a demonstration for uses exceeding 12,400 tons, was based on a unit conversion error made when evaluating data regarding landfill sizes. EPA proposed location-based criteria to reflect siting and construction considerations that more directly impacted environmental risks from CCR. These criteria included factors such as proximity to groundwater, wetlands, flood plains, and seismic zones, which were known to influence the potential for environmental releases. The Agency also requested comment on how these criteria would impact state beneficial use programs.

The 2019 CCR proposal also requested comments on whether a mass-based threshold should be retained, and if so, what the appropriate value should be. The proposal also requested comment on the possibility of using both mass-based and location-based criteria to trigger environmental demonstrations for unencapsulated CCR uses, or whether every unencapsulated use of CCR should be subject to an

environmental demonstration, regardless of size or location.

Finally, the proposal requested comment on whether the beneficial use definition should include a requirement for notifying relevant parties when CCR was placed on land. This requirement could involve informing state agencies, landowners, or the public, similar to practices in some state programs.

The 2019 CCR proposal also included proposed revisions to the requirements applicable to piles of CCR. Under existing regulations, CCR piles are defined as non-containerized accumulations of solid, non-flowing CCR placed on land. This classification subjected piles of CCR to the same regulatory criteria as CCR landfills unless they are containerized or part of an off-site beneficial use.

In the 2019 CCR proposal, EPA proposed to unify the regulatory mechanism for all temporary placements of CCR on land, whether onsite or off-site, and regardless of their ultimate use for disposal or beneficial purposes, setting the standard to control releases from piles. The proposal aimed to provide a consistent mechanism to address potential environmental and health issues associated with piles of CCR, irrespective of their location or intended use, characterizing these activities as “storage” rather than disposal or beneficial use. A definition for CCR storage piles was proposed, identifying temporary accumulations of CCR that are designed and managed to control environmental releases.

The 2019 CCR proposal discussed how entities would need records documenting the removal of CCR within a specific timeline and sought comments on the feasibility of this requirement and alternative criteria for demonstrating temporary piles. Additionally, EPA proposed requirements to control releases from CCR storage piles. The proposal excluded CCR stored in enclosed structures from these requirements.

5. 2020 CCR Notice of Data Availability

On December 22, 2020, EPA published a Notice of Data Availability (NODA) titled “Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Reconsideration of Beneficial Use Criteria and Piles; Notification of Data Availability”, that announced the release of new information and data related to its proposed rule published concerning CCR (85 FR 83478, December 22, 2020) (2020 CCR NODA). EPA sought public comments on whether this new data could influence the Agency’s

reconsideration of the beneficial use definition and provisions for CCR accumulations. The Agency specifically requested comments on these two issues and invited additional data from the public to assist with its reconsideration. EPA clarified that it was not reopening other aspects of the proposal, CCR regulations, or previously available support documents. In addition to seeking public input, EPA shared information obtained during stakeholder meetings held between May and August 2020, which involved discussions with trade associations, utilities, environmental organizations, and state agencies.

6. Public Comments on the Fourth Beneficial Use Criterion and CCR Accumulations for the 2019 CCR Proposal and 2020 CCR NODA and EPA's Decision To Repropose

The Agency received about 130,000 total comments, including comments from a mass mailer campaign, with 60 substantively different sets of comments, on the 2019 CCR proposal reconsidering the beneficial use criteria and provisions for CCR accumulations. Generally, a few state agencies and a public interest group favored the various proposed options to revise the beneficial use criterion, but none of the options had universal support. Some states supported eliminating the mass-based threshold and replacing it with some of the specific location-based criteria to trigger an environmental demonstration which should apply to all unencapsulated uses; and an approach combining the location- and mass-based criteria. One state also suggested that an alternative criterion be allowed where state programs have location-based criteria coupled with chemical constituent limits. Other states suggested establishing a reasonable setback distance to water supply, especially drinking water wells, by adopting a standard similar to North Carolina, which uses the seasonal high groundwater table. One state noted that removing the distinction between coal ash disposal and beneficial use could result in authorization requirements for beneficial use activities, such as permits or registrations; and suggested the Agency continue to encourage CCR beneficial use activities through self-implementing environmental protections with minimal to no permit requirements. Industry and environmental groups generally opposed the proposal to eliminate and replace the mass-based threshold with location-based criteria. The CCR users and utilities commented that the proposed revisions, including having to

conduct an environmental demonstration, would discourage the beneficial use of CCR because of perceived liability concerns and financial burdens to the beneficial user. Industry also commented that changing to location-based standards from a mass-based approach shifts away from the Agency's original concern when the use of unencapsulated CCR on the land should require further demonstration that the use was not disposal and brings in smaller volume beneficial uses. The environmental groups commented that the proposed location-based criteria would weaken the current regulations by allowing any amount of unencapsulated CCR to be placed on the land as beneficial use.

Regarding EPA's 2019 CCR proposal to unify the regulatory mechanism for all temporary placements of CCR in piles, industry representatives, a state agency and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) supported consistent regulatory treatment and a single set of requirements regardless of the location.

Regarding the requirement to control releases, utilities and CCR users expressed concern about subjecting all piles, regardless of size, to the same set of storage standards. However, they supported the flexibility to choose pollution control measures that are site-specific and appropriate for conditions at the site. In contrast, environmental groups disagreed with this flexibility, requesting instead prescriptive design standards, management controls and engineer certification.

Many commenters, including states, CCR users and utilities, agreed that long-term storage of CCR in lieu of disposal should not be allowed. Nonetheless, CCR users and utilities disagreed with the proposed record-keeping requirements to document the complete removal of CCR within a specific timeline. For storage sites not in proximity to end use, the industry requested that record-keeping be limited to gross annual receipts and shipments of CCR. For sites near working end-use locations, such as cement kilns, concrete plants, wallboard manufacturing facilities, commenters argued that locations should sufficiently indicate their active status. Some states and utilities argued that any temporal requirements should better reflect the rolling basis of storage activities or be modeled after RCRA subtitle C speculative accumulation requirements. Environmental groups argued for increased enforceability and specificity through enforcement of exact timeframes.

Regarding the enclosed structure, beneficial users argued that the proposed definition is not workable and should be revised to enable CCR to be received and removed easily while ensuring effective containment. Environmental groups supported the proposed requirement for enclosed structures but also requested additional requirements to containerize liquids and specific requirements for fugitive dust control. They argued that engineer certifications were also needed for enclosed structures and that owners must be required to conduct maintenance, inspections and repairs.

On the follow-up 2020 CCR NODA, the Agency received 33 total comments. Several commenters resubmitted comments previously submitted to the Agency's 2010 CCR proposal. Generally, industry groups representing different manufacturing or production industries commented that CCR is a valuable input—these include cement and concrete producers, gypsum panel product manufacturers, and agricultural sectors. Industry also commented on the absence of damage cases associated with piles, and any beneficial use that meets the first three beneficial use criteria, concluding the fourth criterion is unnecessary. Environmental groups and citizens commented generally that piles, fill, and other unencapsulated uses involving land placement and having substantial environmental and human health impacts, can be open dumping of CCR without applicable disposal regulations.

EPA has considered all significant and relevant comments related to revising the fourth criterion of the beneficial use definition, and other issues related to beneficial use, as well as comments related to the regulation of CCR accumulations on the land that were submitted in response to the 2019 CCR Proposal and the 2020 NODA and has taken those comments into account in developing this re-proposal. If any commenter believes their previous comments on the definition of beneficial use and CCR accumulations have not been adequately addressed by this re-proposal, EPA requests the commenter re-submit their comment to this docket.

IV. What is EPA proposing?

EPA is proposing to amend the federal regulations governing the disposal of CCR in landfills and surface impoundments and defining beneficial use for CCR in 40 CFR part 257. In response to the information EPA has received during the rulemaking for the Legacy Final Rule and since the rule's publication, EPA is proposing several revisions to the existing federal CCR

regulations, which are self-implementing or implemented under a participating-State CCR program. Specifically, EPA is exempting CCR dewatering structures from regulation under part 257 and modifying the legacy CCR surface impoundment and CCRMU provisions.

Additionally, EPA is proposing to establish a new compliance pathway that allows for site-specific considerations during permitting for CCR units complying with groundwater monitoring, corrective action, and closure requirements under a federal or participating-State CCR permit. Specifically, these provisions would allow a permit authority to make site-specific determinations regarding the appropriate point of compliance for the groundwater monitoring system, site-specific cleanup levels during corrective action for constituents without a federal MCL established under §§ 141.62 and 141.66 and referenced at § 257.95(h)(1), and appropriateness of certain closure requirements while still requiring the owner or operator to ensure the unit poses no reasonable probability of adverse effects on human health and the environment.

Lastly, EPA is proposing to revise the definition of beneficial use by eliminating the requirement for an environmental demonstration for the non-roadway use of more than 12,400 tons of unencapsulated CCR on land, as well as proposing a definition of CCR storage pile, and proposing to exclude specific beneficial uses from federal CCR regulations.

In addition to the proposals above, EPA is providing notice that in a future separate action, EPA will reopen the public comment period for the Federal CCR permit program proposed rule entitled *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Federal CCR Permit Program* (85 FR 9940) for a period of 30 days. The public comment period ended on that proposal on August 7, 2020. EPA will reopen the comment period in a future separate action under Docket ID No. EPA-HQ-OLEM-2019-0361 to provide the public with an opportunity to provide input on whether their views of the proposed Federal CCR Permit Program have altered in the intervening years, for example, in light of new information or considering the revisions proposed in this action.

A. Amendments to the Self-Implementing Regulations

As discussed in Units III.A. and III.D. of this preamble, the 2015 CCR Rule established national requirements for

CCR disposal under a self-implementing regulatory structure. Since the promulgation of the 2015 CCR Rule, the 2016 WIIN Act authorized EPA to approve State CCR permit programs and implement a permit program for EPA to serve as the permit authority. 42 U.S.C. 6945(d). In accordance with RCRA sections 4005(d)(3)(A) and 4005(d)(6), in the absence of a permit issued under a participating-State program, the owner or operator of a CCR unit must continue to comply with the self-implementing Federal CCR regulations until a permit from a CCR permit authority (*i.e.*, an EPA-approved State CCR permit program or EPA) that includes these provisions is in effect. 42 U.S.C. 6945(d)(3)(A), (d)(6). For a State with an approved CCR permit program (*i.e.*, Oklahoma, Georgia, Texas, North Dakota), before the State can issue a permit or permit modification for a CCR unit that operates in lieu of the amended regulations from this rulemaking, the State must adopt either the federal standards or alternative technical standards that are at least as protective as the amended Federal CCR regulations, submit an application for approval of the new provisions to the Agency, and receive EPA approval for the new provisions. EPA will work closely with States throughout this process to expedite reapproval of amended provisions.

Since publication of the Legacy Final Rule, EPA received information from numerous companies and representatives of industry regarding the scope of the deferrals within the Legacy Final Rule, the scope of the CCRMU universe, challenges complying with the existing CCR requirements, and requests for regulatory changes. Based on this information provided to EPA, as described in greater detail below, and the conclusions described in Unit III.D., EPA is proposing several amendments to the existing CCR requirements. Specifically, EPA is proposing to: define and exempt CCR dewatering structures from regulation under part 257; broaden the criteria for the closure by removal certification for legacy CCR surface impoundments; broaden the deferral criteria for legacy CCR surface impoundments that have completed closure under a regulatory authority prior to November 8, 2024; amend the scope of the CCRMU regulations; and clarify the deadline for new CCR landfills, CCR surface impoundments, and lateral expansions to comply with the requirements to conduct background sampling. EPA is also soliciting comment on several provisions, including on the need to finalize the

2018 proposed performance standard for more specific slope protection requirements for existing and new surface impoundments.

1. CCR Dewatering Structures

EPA is proposing a definition for “CCR dewatering structures” at § 257.53 and making other clarifying edits to § 257.53 to explicitly state that a dewatering structure meeting this definition would not be classified as a CCR surface impoundment or a CCRMU. During implementation of the CCR program, questions have arisen as to the appropriate standards that should apply to certain concrete basins used as settling ponds for CCR.⁵ Specifically, owners or operators have expressed uncertainty regarding whether dewatering structures are subject to the surface impoundment requirements in the existing federal CCR regulations and have argued that the surface impoundment regulations are unnecessary. While EPA previously took the position that, under the current regulations, these structures are surface impoundments,⁶ EPA has reconsidered that position and believes that regulation as CCR surface impoundments is inappropriate based on a reevaluation of the risk these structures present. This proposal will provide greater flexibility by revising the regulation to provide that these structures: (1) Are not CCR surface impoundments and are CCR dewatering structures as defined in this proposal and (2) As CCR dewatering structures, are not regulated under the federal CCR regulations.

The containment structures in question are used for dewatering CCR to enable CCR solids to be landfilled and are commonly referred to as holding basins, scrubber drying basins, fly ash washdown basins, tanks, or settling ponds. Under the proposed definition, CCR dewatering structures are designed to *temporarily* contain an accumulation of CCR and therefore involve storage, rather than disposal, for the purposes of the CCR regulations. See definition of “disposal” in § 257.53, which states, “For purposes of this subpart, disposal does not include the storage or the beneficial use of CCR.” Based on the Agency’s work with CCR, it is EPA’s current understanding that the use of CCR dewatering structures is a common

⁵ PacificCorp 2025a. Letter from Brett Shakespear, Director, Environmental Compliance and Remediation to Linda Jacobson, EPA Region 8 RCRA Enforcement Section. Re: NEIC Civil Investigation Report Hunter Power Plant, Castle Dale, Utah. October.

⁶ See, for example, Electric Energy, 106 F.4th 31, 42 (2024).

practice across the industry. In fact, the use of dewatering structures is necessary if CCR is to be landfilled. The dewatering process, including the use of these structures, plays a critical role in efficiently managing CCR by reducing moisture content, thereby facilitating easier handling. Dewatering typically serves as an interim step, or steps, prior to disposal in a landfill or shipment for beneficial use. Dewatering structures are specifically engineered to allow for the CCR to dry and result in CCR being easier to handle when moving to disposal in a landfill or being beneficially used. Typically, these structures are made of concrete or other similar material. Their purpose is to dewater wet CCR, not to serve as long-term storage or disposal of CCR. Given this use and function, EPA is now concluding that CCR dewatering structures are different from surface impoundments due to the fundamental differences in their design and function. Surface impoundments usually involve the long-term containment of liquid waste, typically with a significant hydraulic head, which poses a higher risk of seepage and contamination of groundwater resources. Periodically, once sufficient dewatering has occurred, the CCR in these structures will be removed and transported to a CCR or permitted MSW landfill or beneficial use location—another key distinction from surface impoundments that was not fully recognized during the prior rulemaking. As such, clarifying the regulatory status of these dewatering structures is appropriate in this rulemaking.

To create a clear regulatory separation between these CCR dewatering structures and CCR surface impoundments, EPA is proposing to create a new definition for “CCR dewatering structures” in 40 CFR part 257. EPA proposes to define CCR dewatering structures as “a stationary device, designed to temporarily contain an accumulation of CCR which is constructed of non-earthen materials (e.g., concrete, steel, plastic). The device must be used primarily for dewatering CCR waste to facilitate disposal of CCR solids elsewhere.” Accordingly, and to provide greater clarity, EPA also proposes to amend the definition of CCR surface impoundment to note that a containment structure meeting this newly proposed definition of a CCR dewatering structure is not a surface impoundment.

In addition to more appropriately calibrating the level of regulation that is appropriate for these structures, this proposed change enables more owner or operators to dewater their CCR prior to

disposal (*i.e.* landfilling the CCR instead of disposal in surface impoundments). The landfill in which the CCR is ultimately disposed must meet all applicable part 257 or 258 requirements.

EPA expects this change would not produce a reasonable probability of adverse effects on health or the environment. This expectation is informed by a reconsideration of determinations in the initial 2014 Risk Assessment as well as EPA’s understanding of the size and use of these structures. During the 2015 CCR Rule, EPA considered related issues which EPA has since reevaluated. First, EPA considered whether the definition of a CCR surface impoundment should include “temporary” units that are not designed to hold an accumulation of CCR such as downstream secondary and tertiary surface impoundments, such as polishing, cooling, wastewater and holding ponds. EPA reasoned, at the time, that those units are unlikely to ever be completely dredged of CCR and are likely to have large quantities of CCR impounded with water under a hydraulic head will be managed for extended periods of time. As such, EPA concluded, these units present the same risks as permanent disposal units. (50 FR 21357) Second, in the risk assessment supporting the 2015 CCR Rule, EPA modeled units with concrete liners as equivalent to unlined units because of the expectation that cracks could lead to uncontrolled leakage and the difficulties of repairing any issues with the concrete liner.

However, with specific real-world examples arising during implementation, EPA is reconsidering some of these conclusions. First, EPA notes that these conclusions do not account for the fact that concrete containment structures would, by design and function normally be much smaller than a CCR surface impoundment. The several examples of CCR dewatering structures of which EPA is currently aware range from approximately 0.02–2.2 acres in size. The average size of these structure is 0.77 acres with the median size of 0.4 acres.⁷ By comparison, the average and median size of CCR surface impoundments regulated under the 2015 CCR Rule is 54.2 and 24.0 acres, respectively. While surface impoundments do vary widely in size, on average they are considerably larger than a CCR dewatering structure.⁸ The smaller amount of CCR that is

accumulated in these structures along with the lower hydraulic head resulting from the significantly smaller unit size suggests the risk to be lower, with other conditions remaining the same. Further, the EPA acknowledges the previous determination that concrete containment structures were equivalent to unlined units was not based on actual data of leakage rates from concrete containment structures.

The information available to EPA indicates these structures are made of concrete and are enclosed on three sides with a concrete bottom liner. The bottom liner covers the entire surface that may come in contact with CCR containing liquid during the dewatering cycle. This fact distinguishes these structures from unlined units or units only partially lined with concrete (e.g., employing a concrete revetment mat or employing only a concrete apron and vehicle ramp).

These concrete dewatering structures are designed for temporary accumulation and are periodically dredged, and CCR removed. As discussed above, the management practices typically conducted in these structures would not meet the definition of “disposal” and no long-term encapsulation or containment of CCR is expected to occur in these structures. Under the proposed definition of these units, only the temporary containment of an accumulation of CCR for “for disposal elsewhere” would occur. The structures are utilized in a process step (dewatering) critical to efficiently managing CCR by reducing moisture content, thereby facilitating easier handling. Dewatering in these structures serves as an interim step, or steps, prior to disposal in a landfill or shipment for beneficial use. Dewatering structures are specifically engineered to allow for the CCR to dry and result in CCR being easier to handle when moving to disposal in a landfill or being beneficially used. As such, at the end of their life no CCR should remain in the containment structures. EPA also expects the periodic dredging and emptying of the dewatering structures at the end of each dewatering cycle will provide an opportunity for some visual inspection of the structures to identify significant cracks or other failures in the engineered structure. Based on EPA’s understanding, these distinctions suggest a lower risk for these structures than EPA estimated in the 2014 Risk Assessment.

Additionally, EPA now also has a greater appreciation for the various standards used in the concrete industry. For example, the American Concrete Institute has standards and commentary

⁷ See Memo to record re: CCR dewatering structures. January 2026.

⁸ See 89 FR 38958 for a discussion of available information on various CCR unit sizes.

for concrete structures used in environmental engineering. The standards cover the structural design, materials selection, and construction of environmental engineering concrete structures. The standards account for the fact that concrete structures used for conveying, storing, or treating liquid or solid wastes are subject to uniquely different loadings, more severe exposure conditions, and more restrictive serviceability requirements than non-environmental building structures.⁹ While these standards are not legally binding, they illustrate the expertise in the concrete industry and the refinement of concrete formulations, and methods for specific applications. Notably, the commentary provides substantial guidance and best practices to assure liquid-tightness of concrete structures.¹⁰

Furthermore, developments in material science have yielded advancements in concrete technology. A 2023 review of available literature concluded that concrete technology had undergone remarkable advancements in the preceding decade, encompassing novel materials, sustainable practices, durability enhancements, and advanced manufacturing techniques. The review notes the developments offer improved performance, sustainability, and construction efficiency. The review also concluded that the introduction of novel materials, such as additives, fibers, and fillers, has led to enhanced properties in concrete, including increased strength, ductility, and crack resistance.¹¹ A 2025 study also found that self-healing concrete formulations improve concrete structure longevity. Specifically, the authors of the study found high crack healing efficiency in self-healing concrete that can also extend service life of concrete structures.¹² Based on its experience with these industries, EPA expects owners or operators will have incorporated recognized and generally accepted good engineering practices in the design and construction of these structures. Therefore, EPA likely overstated the risks in 2014 of these

comparatively small units with concrete liners. EPA is thus proposing these containment structures be considered CCR dewatering structures, not CCR surface impoundments and that they are not subject to the requirements for surface impoundments in 40 CFR part 257, subpart D.

In implementation, the key to distinguishing these dewatering structures from surface impoundments would be whether the structure in question was: (1) Used for temporary accumulation of CCR for the primary purpose of dewatering the CCR and (2) Built with non-earthen materials. If the containment structure meets both criteria above, it is considered a CCR dewatering structure under 40 CFR part 257. If not, the structure would be a CCR surface impoundment as defined in § 257.53.

To develop a more comprehensive understanding of the prevalence and nature of structures that would meet the proposed definition of a CCR dewatering structure, EPA is soliciting comment on the number of structures that meet the proposed definition and their locations. EPA specifically requests information about: (1) the location of these structures, including the state, facility name, and precise location at the facility, (2) specifics about the design, including if professional engineer certified the designs, the size of the unit, and expected operational life, (3) specifics about the construction, including the date of construction and materials used, (4) specifics about the materials that were used, including any relevant standards or specifications for the material (e.g., ASTM or ACI), (5) any expected or routine maintenance required to keep the structure operating as intended, including specifics regarding the maintenance performed and the frequency, and (6) specifics about the operation of these structures (e.g., average dewatering cycle times, frequency of inspections conducted, or any other relevant information). Additionally, EPA requests information on the environmental regulation and impact of these structures, including any known incidents of leakage or contamination, state or local oversight of these units, or monitoring or reporting mechanisms in place. Further, EPA requests comment on what, if any, additional criteria should be incorporated into the proposed definition of CCR dewatering structures. For example, should the definition of CCR dewatering structure specify the structure be completely enclosed on three sides or that the non-earthen material have a hydraulic conductivity

of no more than 1×10^{-7} cm/sec, as required for composite or alternative composite liners for new CCR units? See § 257.70(b) and (c). Should the definition require the unit be located in a location whereby any releases would be detected by the facility's groundwater monitoring system (i.e., covered as part of a multi-unit system)? Should the definition include certain operational standards or practices that would need to be adhered to in order to be a CCR dewatering structure, such as: routine visual inspection of the concrete structure (i.e., at the end of every dewatering cycle) to identify and address visually apparent cracks, spalls, or issues with sealants and joint condition to help ensure the liquid tightness of the concrete structure; daily inspections of ancillary equipment (e.g., piping, valves, pumps) to help prevent leaks, spills or overtopping caused by equipment failure or human error; maintaining a minimum freeboard throughout the dewatering cycle to prevent overtopping and associated potential runoff; or biennial cleanouts of the structures including pressure washing to decontaminate the unit and allow for more detailed inspection and repair of the concrete slab and joints to ensure liquid tightness of the concrete and greatly reduce the risk of leaking? EPA requests comment on whether these operational requirements would be appropriate or necessary to ensure no adverse effect on health and the environment as part of exempting these units from regulation as CCR surface impoundments.

Finally, to provide as clear a definition as possible, EPA also requests comment on the proposed definition of CCR dewatering structure. EPA specifically solicits feedback regarding how to better distinguish between these temporary dewatering structures and composite lined surface impoundments, such as incorporating explicit parameters regarding what constitutes "temporary" containment of an accumulation of CCR. If so, EPA request input regarding the specifics of those parameters (e.g., what length of time should constitute "temporary").

This information is anticipated to help the Agency validate or calibrate its proposed approach (i.e., exempting these CCR dewatering structures from Federal regulation as a CCR surface impoundment). The Agency believes this is worthwhile given that most of the information EPA currently has on these structures are from a relatively small subset of facilities compared to the total universe. Gathering broader data will help ensure that the decision in the final

⁹ American Concrete Institute. "Code Requirements for Environmental Engineering Concrete Structures (ACI 350-06) and Commentary" 2006.

¹⁰ Ibid, pg. 350-3.

¹¹ Ajwad, A (2023) Concrete Evolution: An Analysis of Recent Advancements and Innovations. Fifth Conference on Sustainability in Civil Engineering (CSCE'23) Department of Civil Engineering Capital University of Science and Technology, Islamabad Pakistan. https://csce.cust.edu.pk/archive/CSCE_23_conference_proceedings/2023-135.pdf.

¹² Olaboye, O. S. (2025) Advancements in Self-Healing Concrete: Enhancing Durability and Reducing Maintenance Costs. *American Journal of Engineering Research*, Vol 14 (issue 2) pp 25-34.

rule considered a more comprehensive set of information.

2. Legacy CCR Surface Impoundments

Since publication of the Legacy Final Rule, EPA has received information from States and regulated entities about the adequacy of closures of legacy CCR surface impoundments and CCRMU completed prior to November 8, 2024.¹³ These entities have stated that this information demonstrates that closures performed under State oversight are protective of human health and the environment. Therefore, EPA is proposing to create another option in § 257.100(g) for owners and operators to certify closures of legacy CCR surface impoundments by removal that have been completed prior to November 8, 2024 and to expand the deferral criteria in § 257.101(g) for legacy CCR surface impoundments and CCRMU that completed closure prior to November 8, 2024 under oversight by a regulatory authority (*i.e.*, State or federal program).

a. Certification of Closure by Removal for Legacy CCR Surface Impoundments

EPA is proposing to establish an additional option in § 257.100(g) for owners and operators to certify the closure of legacy CCR surface impoundments by removal, provided these closures were completed prior to November 8, 2024, under the oversight of a regulatory authority.

The Legacy Final Rule established a pathway for legacy CCR surface impoundments that closed by removal before November 8, 2024, allowing them to certify and document their closure as having met the performance standards in § 257.102(c). See § 257.100(g). Successfully documented and certified closures by removal would exempt these legacy surface impoundments from further requirements under 40 CFR part 257, subpart D. This decision was made to avoid requiring owners or operators of legacy surface impoundments that had completed closure in a manner that met the performance standards in § 257.102(c), to comply with additional subtitle D requirements which would not result in health or environmental benefits. Under the regulations promulgated at § 257.100(g), the following information is required to make the certification:

- The type and volume of CCR and all other materials in the unit prior to closure;
- The methods used to verify complete removal of all CCR and other contaminated materials from the unit,

including any post-removal sampling and analysis;

- Documentation that all CCR and other contaminated materials were removed from the unit, including, the results of any post-removal sampling and analysis that was conducted;
- The methods used to verify complete decontamination of all areas affected by releases from the unit, including but not limited to post-decontamination sampling and analysis;
- Documentation that all areas affected by releases from the unit were decontaminated and that all groundwater affected by releases has achieved groundwater protection standards; and
- Documentation that groundwater monitoring data concentrations of each appendix IV constituent do not exceed the relevant groundwater protection standard, which would be either the federal MCL or background concentration, for two consecutive sampling events, consistent with §§ 257.95(e) and (h). Additionally, the owner or operator must include documentation that the system meets a subset of performance standards at §§ 257.91(a) through (e), 257.93(a) through (d), and 257.93(i) codified at §§ 257.100(g)(6)(i) through (vii).

This avenue to closure by removal certification for legacy impoundments is a viable path for some legacy surface impoundments, in particular, units that had groundwater monitoring systems and data to demonstrate constituent concentrations do not exceed the groundwater protection standard established at § 257.95(h). The Agency intends for this avenue to remain in effect and is not proposing to revise this provision. Maintaining this avenue avoids potential disruption for owners and operators that have already made such demonstrations.

However, several public comments on the Legacy Proposed Rule requested greater flexibility in closure by removal certification for legacy impoundments, specifically advocating for all closures by removal approved by a State or regulator under other authorities (*e.g.*, State solid waste programs) to also qualify for certification. During finalization of the Legacy Final Rule, EPA did not adopt this suggestion due to a lack of documented factual and legal basis for States' decisions, which prevented EPA from concluding that all State-approved closures by removal posed no reasonable probability of adverse effects on health or the environment, as mandated by RCRA section 4004(a). (89 FR 39009) While concluding all State-approved closure met the RCRA protectiveness standard

was not appropriate, EPA acknowledges that additional flexibility in the closure by removal certification criteria may be warranted in certain instances.

Since publication, EPA has received information from members of the regulated community to support the expansion of the closure by removal certification criteria and the conclusion that closure performed under State oversight meets the RCRA protectiveness standard. Upon reconsideration, EPA reviewed pertinent information, including public comments on the Legacy Proposed Rule, and the information received post-finalization of the Legacy Final Rule, including examples of State-overseen closures in Kentucky, North Carolina, South Carolina, and Georgia.

In Kentucky, the State's Division of Waste Management (KDWM) oversaw the closure by removal of three legacy impoundments at the Dale power generation facility between 2014 and 2019. KDWM approved the closure plan, conducted at least 16 onsite inspections including three inspections of the units to verify "clean closure" down to native soils. KDWM spent over 350 hours overseeing the closure.

At Duke's Riverbend plant, North Carolina required and oversaw the closure by removal of 5.35 million tons of CCR between 2014 and 2019. The impoundments were dewatered, the ash excavated, and the area regraded and seeded with grass. The State also requires annual stability inspections, a groundwater monitoring program with over 140 wells, and a corrective action program to continue at the two now closed legacy impoundments. EPA independently verified that North Carolina's Coal Ash Management Act (CAMA) requires closure of all unlined impoundments, including those at inactive facilities that would qualify as legacy CCR surface impoundments. Further, review of publicly available documentation from Duke Energy, the owner of all legacy impoundments in the state, indicates the presence of state orders-on-consent requiring corrective action for these units.

Between 2012 and 2020, South Carolina oversaw the closure by removal of two CCR surface impoundments at the Granger facility. The owner or operator removed all the CCR along with an additional foot of underlying soil from both inactive impoundments. The removal of CCR from the two impoundments was performed under the supervision of the South Carolina Department of Health and Environmental Control (SCDHEC) and in accordance with the requirements established by a detailed CCR closure

¹³ This is the effective date of the Legacy Final Rule.

plan also approved by SCDHEC. The closure plan also required comprehensive soil sampling to ensure the decontamination of the remaining soil across both impoundments. Post-closure groundwater monitoring—required by the State—will continue until all relevant constituents meet, and stabilize at or below, their applicable MCL, as established by SCDHEC. EPA's own research found that the legacy CCR surface impoundments in South Carolina are already undergoing or have undergone closure and, if needed, corrective action consistent with the requirements of the legacy rule.

In a fourth example of information provided to EPA regarding closure by removal of legacy CCR surface impoundments under State oversight, Georgia oversaw the closure by removal of an ash pond at the Kraft plant through the State's Response and Remediation Program between 2015 and 2021. The State approved the soil and groundwater at the unit as protective of human health and the environment in 2021. EPA also received comments on the Legacy Proposal that offered a few examples of closures that the commenters believed were substantially equivalent to closures completed in accordance with § 257.102, because they involved substantial regulatory oversight, a site-specific risk assessment, and general consistency between the programs on the standards to be applied. These included closures under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and an approved State's RCRA subtitle C program. Another commenter, Duke Energy, provided a copy of a 2020 Consent Order entered in State court governing the closure of CCR surface impoundments at seven sites across the State. The utility also provided copies of several human health and ecological risk assessments that were conducted to support the State's approval of the closures, along with various third-party reports. The commenter concluded that based on this record, it is unnecessary to subject CCR units that closed under any other regulatory programs to the existing closure criteria for CCR surface impoundments in §§ 257.101 and 257.102. While these examples aren't specific to closure by removal, the commenters were intending to illustrate that these other regulatory authorities provide detailed and meaningful oversight to address risk posed by the CCR units in a site-specific, tailored approach and therefore, additional Federal requirements are not necessary

and would not result in health or environmental benefits.

As stated in the Legacy Final Rule, EPA agrees that closures conducted as part of a CERCLA or RCRA subtitle C response action would normally be expected to be consistent with the performance standards in § 257.102. The CCR closure regulations were based on the closure regulations for hazardous waste facilities, and the CCR regulations would normally be considered applicable or relevant and appropriate requirements (ARARs) under CERCLA for any closure of a CCR facility after 2015. EPA further acknowledged that these closures are not the only closures that may be equally as protective as those conducted under the Federal CCR requirements. (89 FR 39030).

In the Legacy Final Rule, EPA finalized requirements to monitor groundwater to ensure the closure fully addressed any risk to the groundwater. However, based on the information provided to EPA regarding the level of regulatory oversight during and after these previous closures, and the cases made by commenters regarding the ability of permit authorities to adequately address risk in a site-specific way, EPA now concludes that requiring groundwater monitoring is not the only way to assess potential risk to groundwater and ensure closures pose no reasonable probability of adverse effects to health and the environment. For example, a State may have overseen the closure by removal of a legacy surface impoundment and determined, based on state legislation, risk assessments, site-specific facts, or models, that groundwater monitoring was not necessary to conclude that the closure did not pose a reasonable probability of adverse effects to health or the environment. Such a unit would not be eligible to certify the closure by removal under the current regulations. However, EPA concludes that additional closure activities are not warranted as long as the impacts to groundwater were considered prior to or during the closure, even if the authority determined groundwater monitoring was not necessary.

This pathway to closure by removal certification ensures no reasonable probability of adverse effects on health or the environment, in part, by requiring state oversight of previously conducted closures by removal. State oversight of the closure by removal should ensure that all CCR were removed from the surface impoundment and, thus, no source of contamination would remain at the unit. This pathway thus ensures the sources of additional pollution were eliminated. The pathway, additionally,

provides for consideration of groundwater and state oversight of any necessary corrective action. Identified existing contamination (*i.e.*, that originating prior to all CCR being removed) could be addressed by corrective action, as deemed necessary by the state.

Therefore, based on the above considerations and information, as well as the conclusions discussed in Unit III.D. regarding the ability of EPA to allow for non-uniformity in attainment of the baseline RCRA standard of protection, EPA is proposing to codify another option for owners and operators to certify closure of legacy CCR surface impoundments by removal at § 257.100(g).¹⁴ Under this option, owners or operators must demonstrate the closure was completed under the oversight of another regulatory authority prior to November 8, 2024, the authority considered impacts to the groundwater, and oversaw any necessary corrective action. Adding a third avenue for certification of closure by removal for legacy surface impoundments that have completed closure by removal under state or Federal oversight prior to November 8, 2024, credits owners and operators' good faith efforts to comply with closure requirements for legacy surface impoundment imposed by other regulatory authorities prior to the Legacy Final Rule's effective date. Additionally, this avoids duplicative regulation that could cause uncertainty, delay, or require redoing closure work that was approved by another regulatory authority. The proposed change would address the state closure scenario described above and others where a State or other regulatory authority—during the active oversight of the legacy CCR surface impoundment closure—determined the closure by removal would not present a reasonable probability of adverse effects to health or the environment, even without requiring groundwater monitoring.

To effectuate this change, EPA is proposing to modify § 257.100(g) to provide another avenue to certify the closure by removal for legacy surface impoundments. This proposal would not affect those who completed the certification under the existing

¹⁴ The regulations already contain two pathways for owners and operators of legacy surface impoundments to certify closure by removal (*i.e.*, § 257.100(g)(1)–(6) for those with available groundwater data and § 257.100(h) for those units that needed to conduct additional groundwater monitoring). This proposal would not affect these two existing certification avenues. The proposed third avenue for certification of closure by removal is an additional avenue not intended to disrupt, supersede, or otherwise alter the two existing avenues.

regulations no later than November 8, 2024. If finalized, this proposal would provide the option for an owner or operator of a legacy CCR surface impoundment that completed closure of the CCR unit by removal of waste prior to November 8, 2024, to complete a closure certification that includes information regarding a regulator-approved closure by removal and any necessary corrective action conducted pursuant to an enforceable requirement. The documentation would need to demonstrate that the regulator played in active role in overseeing and approving the closure by removal, considered impacts to groundwater, and oversaw and approved any necessary corrective action. The consideration of groundwater impacts is important to ensure that the potential risks to groundwater were evaluated by the State or other regulatory authority. This may take the form of site-specific information (e.g., groundwater monitoring data, receptor surveys, groundwater modeling, or a risk assessment) or statewide decision that groundwater monitoring is not necessary (e.g., state legislation stating as much). Instances of a regulatory authority providing active oversight and approval of a closure could include closure by removal conducted under a State or Federal permit, an administrative order, or consent order issued on after October 19, 2015 under CERCLA or by an EPA-approved RCRA State program.

The October 19, 2015 date is the effective date of the 2015 CCR Rule which established national standards for CCR management, including closure. EPA believes this date is appropriate as the owners and operators conducting these closures, and regulators overseeing the closures, would have been cognizant of the Federal CCR closure standards. Moreover, for orders issued under CERCLA after that date, the Federal CCR management standards would have been ARARs. As such, this date helps ensure that the closures conducted under these alternate programs are unlikely to result in a reasonable probability of adverse effects on health and the environment.

EPA is proposing to require the certification of closure by removal under the oversight of a regulatory authority including the supporting information, be completed within six months of the publication date of the final rule, if finalized. This compliance timeframe was used for the original closure by removal certification at § 257.100(g). EPA expects this will provide ample time for owners and operators to prepare the necessary

documentation of State oversight of their closure by removal.

In acknowledgement of the additional information received, and to realize the benefits described above, this proposal allows owners and operators to rely on prior determinations of the State and other regulatory authorities to meet the federal standards. At the same time, due to the practical limitations and inherent uncertainty related to the record, EPA requests comment on the adequacy of the record for this aspect of the proposal, and, to the extent any gaps are identified, requests suggestions for sources of additional information. As described above, during the rulemaking for the Legacy Rule, the Agency had received information to demonstrate that previous closure decisions made under State or other regulatory authorities will protect human health and the environment. Since promulgation of the Legacy Final Rule, the Agency received additional information describing a handful of State programs and several individual, site-specific closure decisions. EPA requests comment on whether these closures are representative of closures performed at other sites and in other States. Specifically, EPA would like to know if there is additional information the Agency should consider, or other issues of which EPA should be aware. For example, EPA encourages commenters to submit specific case studies or examples where State or other regulatory authority decisions have been effective or ineffective in ensuring protective closures. Additionally, EPA seeks empirical data or studies that compare the effectiveness of State and federal CCR closure requirements or information describing specific elements of State regulatory frameworks that may differ from federal requirements and how these differences impact closure outcomes. EPA will consider such information submitted as it develops the final action.

Based on this additional information and the policy rationale described above, EPA is proposing to provide an additional option for owners and operators to certify closure of legacy CCR surface impoundments by removal, provided they were completed under the oversight of another regulatory authority.

Solicitation of comment.

Additionally, EPA is requesting comment on whether the proposed additional certification of closure by removal avenue allows for legacy impoundments to have been closed under a sufficiently broad suite of scenarios. As described above, the proposed approach would require the

owner or operator of a legacy impoundment to submit documentation that a regulatory authority played an active role in overseeing and approving the closure by removal and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015. This includes a State or Federal permit, an administrative order, or consent order under CERCLA or by an EPA-approved RCRA State program.

However, during the development of the proposed rule, EPA received input from a subset of utilities requesting a broader suite of former closures be eligible for this certification process. One utility requested EPA to remove the requirement that the closure and any necessary corrective action be pursuant to an enforceable requirement. This change would allow legacy impoundments conducted under voluntary cleanup programs to be eligible for this certification pathway. A second utility suggested removing the stipulation that the enforceable requirements have been issued after October 19, 2015. This would allow for closures conducted before the existence of the 2015 CCR Rule to be eligible for the closure by removal certification. Removing these restrictions on when the closure and corrective action were required and the types of programs that could have overseen the closure of these units would come with certain tradeoffs.

Benefits of this additional flexibility would include a greater number of legacy impoundments eligible for this certification and thus greater regulatory certainty and continuity. Units that were closed by removal in a protective manner—regardless of timing of the closures and whether they were closed under a voluntary program—would not be required to conduct additional closure activities that don't offer additional protection or benefits. The primary disadvantage is that some of those units closed pre-2015 and under a voluntary program may not have been closed in a comparable manner to that required under the Federal program and possibly with no meaningful oversight. As a practical matter, in such scenarios, there may be less documentation available as to the closure and corrective action activities performed. Relatedly, there may also be less assurance that all the closures previously conducted under such broad criteria would ensure there will be “no reasonable probability of adverse effects on health or the environment.” For example, the level of oversight under voluntary programs may vary between States and over time. In some States, the voluntary closure may entail significant oversight, (e.g.,

regulator review and approval of the closure and groundwater monitoring plans, review of groundwater monitoring data) but not necessarily in all States or in all time periods in which these closures were performed. At the same time, if the owner or operator could demonstrate there was meaningful oversight of the closure and corrective action activities conducted (which would still be required under this alternative), it may be reasonable to assume the closure would be protective.

EPA requests comment on whether the Agency's proposed criteria for State and other regulatory programs is appropriate and whether the two suggestions from commenters described here should be finalized. EPA is also seeking comment on specific criteria that voluntary programs should meet for units closed under their oversight to be eligible for this certification. The Agency also requests examples of successful closures under voluntary programs that could inform EPA's final decision. EPA also requests if any other documentation may be appropriate to require to demonstrate the protectiveness of closures conducted pre-2015 or under a voluntary program. EPA will consider public comments and, if the comments are sufficiently supportive, may finalize these additional closure by removal certification paths.

b. Deferral of Certain Legacy CCR Surface Impoundment Closures To Permitting

EPA is proposing changes to § 257.101(g) to expand the deferral criteria for legacy CCR surface impoundments that completed closure of the unit under state or federal regulatory authority prior to November 8, 2024. This expansion will allow owners and operators to rely on the decisions of State and other regulatory authorities regarding legacy impoundment closures conducted prior to the effective date of the Legacy Final Rule to meet the federal standards—until the CCR permitting authority can consider, on a site-specific basis, the need for additional closure measures to be taken. This expansion does not eliminate the requirements for groundwater monitoring and corrective action of releases from the unit.

In the Legacy Final Rule, EPA finalized provisions allowing owners and operators of legacy surface impoundments to defer compliance with the closure performance standard until the CCR permit authority could make a site-specific decision regarding the adequacy of the closure, provided the owner or operator could document

that the unit closure met certain conditions. This provision allowed the permit authority to evaluate site-specific information and determine whether a closure performed before the effective date of the Legacy Final Rule met the appropriate part 257 closure standards. As explained in the Legacy Final Rule, EPA did not want to require facilities that had completed closure prior to November 8, 2024, to “reclose” if the closure conducted was protective of human health and the environment and requiring compliance with additional subtitle D requirements would not result in health or environmental benefits. At the time of the Legacy Final Rule, EPA recognized that some closures would have been done in a manner that achieved a similar outcome to the closure performance standards in § 257.102, while others would not have. At the same time, however, EPA did not believe that it could develop nationally applicable criteria that were sufficiently precise that regulated entities could determine whether the alternative requirements ultimately accomplish the same environmental goals and meet the same performance standards as the Federal requirements. Accordingly, the Legacy Final Rule provided the avenue at § 257.101(g) for owners and operators of legacy impoundments to defer closure determinations until the CCR permit authority could make a site-specific decision.

Specifically, the Legacy Final Rule provided that an owner or operator of a legacy CCR surface impoundment need not demonstrate compliance with the closure performance standards in § 257.102(c) or (d) provided they demonstrate that the closure of the CCR unit met a specified list of standards codified in § 257.101(g). These standards are:

(1) The owner or operator of the CCR unit must document that a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement. This includes a state or Federal permit, an administrative order, or consent order issued after 2015 under CERCLA or by an EPA-approved RCRA state program.

(2) The owner or operator of the CCR unit must document that the regulatory authority required or conducted a site-specific risk assessment prior to (or as part of) approving the closure and any necessary corrective action.

(3) The owner or operator of the CCR unit must document that it installed a groundwater monitoring system and performed groundwater monitoring that meets all of the following:

- (i) Was capable of accurately representing background water quality;
- (ii) Was capable of accurately representing the quality of water passing the waste boundary;
- (iii) Was capable of detecting contamination in the uppermost aquifer; and

(iv) Monitored all potential contaminant pathways.

(4) Must document that the closed unit meets either:

(i) The performance standard in § 257.60; or

(ii) The performance standard in § 257.102(d)(2)(i).

(5) The owner or operator must also include a certification statement as to the veracity of the information.

These standards are intended to ensure protectiveness at least until the time a permit authority could evaluate the closure on a site-specific basis to determine if the closure is as protective as those conducted in accordance with § 257.102. The existing provisions require the owner or operator to submit a permit application to the permit authority with sufficient information, including groundwater data, to demonstrate the applicable closure standards had been met. Under the existing regulations, the permit authority will then review the information to determine whether the “equivalency” of the closure has been successfully demonstrated. If EPA or a Participating State Director determines that the closure has met the appropriate part 257 closure standard, the permit authority will issue a permit to require compliance with applicable post-closure requirements. If the permit authority determines that the closure does not meet the appropriate part 257 standards, the owner or operator will be required to submit a complete permit application and obtain a permit that contains the specific requirements necessary for the unit to achieve compliance with the closure requirements at § 257.102.

During the Legacy Rulemaking, EPA received public comment arguing that state programs had become significantly more robust over the past couple of decades, especially, since 2015 when EPA last conducted a review of state programs. For example, Duke Energy provided information on North Carolina's CCR program. The utility claimed that there are no gaps within the state program including with respect to legacy surface impoundments. Duke Energy further stated that the state's groundwater rules establish robust groundwater monitoring and corrective action programs. The company went on to describe aspects of the state's program that, it argues, as applied to

two of its facilities, (*i.e.*, the Riverbend and Cape Fear facilities), results in stringent oversight by North Carolina Department of Environmental Quality (NCDEQ).

Specifically, Duke Energy notes that with respect to Riverbend, the state's Coal Ash Management Act (CAMA) prescribed the closure method (*i.e.*, closure by removal), Sess. L. 2014–122, §§ 3.(b)(2), (c)(1), (2), and mandated that impacted groundwater be restored in accordance with the act's groundwater assessment and corrective action provisions. As for Cape Fear, the utility notes that CAMA required closure plans for all the company's impoundments not already subject to closure by removal under the legislation, including the basins at Cape Fear. N.C.G.S. § 130A–309–214(a)(4). The utility proceeded to describe many aspects of the program suggesting that the closure plans are comprehensive and subject to significant regulatory oversight and public participation. The key assertions are as follows:

- The closure plans, among other things, require the results of a hydrogeologic, geologic, and geotechnical investigation of the site; the results of groundwater modeling of the site; a description of the provisions for disposal of wastewater and management of stormwater; a description of the provisions for the final disposition of the CCR; and a description of the plan for post-closure monitoring and care for an impoundment for a minimum of 30 years.
- The closure plan approval process includes public participation components involving public notice and comment and public meeting(s) in county(ies) in which the site is located. After an opportunity for public comment, NCDEQ makes the final determination as to the protectiveness and adequacy of the closure plan.

The utility goes on to state that NCDEQ's Coal Combustion Residuals Surface Impoundment Closure Guidelines for Protection of Groundwater also sets out robust requirements to establish conformance with the state's closure-by-removal performance standards. Duke Energy notes that the guidelines establish clean-up levels commensurate with site-specific background concentrations. For soil, the clean-up level is either the site-specific background concentration or the lowest soil screening level protective of groundwater. To develop soil remediation goals and corresponding clean-up levels, facility owners or operators must develop an excavation soil sampling plan for each

site and submit it to NCDEQ for a determination of whether the plan is sufficient in scope to meet the performance standards for closure. Determinations that CCR removal is complete, according to Duke Energy, rely on a visual confirmation that all CCR and commingled CCR and soil have been removed based on sampling of the material and analysis under polarized light microscopy utilizing American Standards for Testing and Measures D2488, Standard Practice for Description and Identification of Soils (Visual—Manual Procedure).

EPA's independent examination of state CCR programs applicable to legacy units did find that North Carolina's Coal Ash Management Act (CAMA) requires closure of all unlined impoundments, including those at inactive facilities that would qualify as legacy CCR surface impoundments. Further, review of publicly available documentation from Duke Energy, the owner of all currently identified legacy CCR surface impoundments in the state, indicates the presence of state orders-on-consent requiring corrective action for these units. All potential legacy CCR surface impoundments in North Carolina have been or are in the process of closure.

Since publication, several owners and operators of CCR units have provided EPA with additional information they believe demonstrates the adequacy of CCR unit closures performed under the oversight of other regulatory authorities (*e.g.*, state programs). For example, according to Vistra Corp, the Illinois EPA (IEPA) oversaw the closure of a former CCR surface impoundment at the shuttered Havana Power plant. The unit was dewatered and closed in December 1993, under a corrective action plan overseen by IEPA. Surficial water was removed and a three-foot thick cover of soil with vegetation was installed. Groundwater data provided by the utility showed a reduction of boron concentration and compliance with the groundwater standards. At the former Hennepin Power plant in Illinois, another legacy surface impoundment was closed under IEPA oversight. According to Vistra Corp, surficial water was removed, and the unit has been subject to groundwater sampling since 1996. Initial sampling demonstrated exceedances of the boron groundwater standard. In 2020, a final cover system was installed pursuant to the federal CCR rule, consisting of a compacted soil barrier layer with a minimum of 24 inches of earthen material with a maximum permeability of 1×10^{-7} centimeters per second. The utility states that in limited areas, CCR may be saturated with groundwater during

higher flood events of the Illinois River. Vistra Corp contends that the groundwater data demonstrates that simply dewatering and taking this unit offline resulted in significant decreasing trends in boron since 1996, with several wells achieving compliance with the groundwater standard for boron well before the cover system was installed. Further, the utility suggests that the modeling conducted demonstrates that boron concentrations are expected to continue the downward trend even though some ash is saturated with groundwater.

Another utility, Tennessee Valley Authority (TVA), provided EPA with information about Tennessee's CCR program. TVA explained that this information suggests that site-specific human health and ecological risk assessments conducted in the program follow EPA protocols. According to the information provided, the risk assessments have found that there are no unacceptable risks related to CCR management identified for all receptors at most sites. Additionally, the utility stated that potential risk to future workers, where identified, would be mitigated by health and safety protocols. TVA explained that the information provided also speaks to how the state handles closure and corrective action. The state's closure decisions factor in ongoing operations, planned extraction of CCR for beneficial use, risk assessment results, qualitative impacts, and stability assessments. Tennessee's corrective action program incorporates risk assessment results and statistical evaluation of groundwater sampling data to assess regulatory requirements. TVA further explained that no corrective actions have been identified to address unacceptable risks, but localized groundwater corrective actions are required at some units to meet the groundwater protection standards.

The utility also provided specifics about the Tennessee-approved closures at the former John Sevier Fossil Plant. TVA stated that the information speaks to how the state closure and corrective action requirements will control and minimize infiltration, reduce flux from pore water and achieve compliance with groundwater protection standards. Post-closure care requirements are intended to maintain these conditions and the controls in place. The utility contended that the cumulative result is that there will be no unacceptable risks to offsite human or ecological receptors at the facility.

In a third example of relevant information provided to EPA since promulgation of the Legacy Final Rule, Xcel Energy shared details of a

previously conducted closure under the authority of the state of Minnesota. At the Black Dog Plant, the coal-fired generating units ceased operating in April 2015 and disposal of CCR in the onsite units ceased prior to October 19, 2015. The units were certified closed in February 2017. The utility contends that this is an example of a site that was successfully remediated under a rigorous state program and meets acceptable risk criteria. Xcel Energy further states that the quantities of CCR that remain onsite were subject to an extensive site evaluation, risk assessment and the implementation of state-approved remedial action that supported the conclusion that the site is not adversely impacting human health or the environment.

The utility provided documentation of the closure and the state's oversight including the risk assessment conducted, the state-approved remedial action plan, state-approved long-term monitoring plan, and the closure certification. The documentation provided suggests that, in total, the closure involved the removal of 117,300 cubic yards of CCR and impacted soils and the import of 717,000 cubic yards of clean fill material. At the ponds where removal of all non-native materials (including CCR) wasn't conducted, a 4-foot cap of clean imported fill material was utilized. Additionally, groundwater monitoring was conducted before and after the remedial action. The site now features a bike path along the Minnesota River.

EPA intends to maintain the general procedures in the existing regulations, whereby owners and operators of legacy surface impoundments may defer compliance with the CCR unit closure standards until a site-specific decision is made by the permit authority on the equivalence of the previously conducted closures. However, based on the information above as well as the considerations discussed in Unit III.D. regarding the benefit of regulatory oversight (*i.e.*, allowing a permit authority to evaluate risk and determine requirements based on site-specific considerations), the new tools provided to EPA as part of the WIIN Act, and the ability of EPA to allow for non-uniformity in attainment of the baseline RCRA standard of protection, EPA is proposing to modify § 257.101(g) to expand the deferral criteria. Specifically, EPA proposes to adjust the deferral criteria by removing three of the standards that currently must be met to be eligible for the deferral. EPA is proposing to remove: (1) The detailed technical requirements for a groundwater monitoring system, (2) The

requirement that a facility document that the legacy CCR surface impoundment currently meets either the location standard in § 257.60 or the dewatering standard in § 257.102(d)(1)(i), and (3) The requirement that the regulatory authority conducted a site-specific risk assessment. EPA is instead proposing that the owner or operator would need to document that a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015, a groundwater monitoring system was installed, and groundwater monitoring was performed. The owner or operator would need to also provide the same certification as to the veracity of the documentation currently required under § 257.101(g)(5).

EPA anticipates that this amendment will lead to an increase in the number of closed legacy impoundments eligible for deferral. As a result, fewer legacy surface impoundments will be required to undertake additional closure activities before the CCR permit authority determines that such actions are indeed necessary. It is worth noting that all legacy surface impoundments eligible for the deferral would still, at the time of permitting, be required to submit a permit application with sufficient information, including groundwater data, to demonstrate the applicable closure standards had been met. In the meantime, the unit would be subject to groundwater monitoring and corrective action in the event any problems are identified that require remedial action. The CCR permit authority would then make a final determination as to whether the previously conducted closure achieved the applicable performance standards established in the Federal CCR regulations.

The proposed amendment ensures that previous decisions made by state or federal regulators remain unaffected until the CCR permitting program can conduct site-specific evaluations. This approach allows for greater continuity in the short term and ensures EPA does not require compliance with additional subtitle D requirements that may not result in benefits to human health or the environment unless and until it is determined that additional closure activities are indeed necessary. Furthermore, this change allows for greater implementation resources to be directed to site-specific permitting to address risks and away from evaluating compliance with a more complex set of deferral criteria. Finally, adding this flexibility comes with relatively little

tradeoff. Most of these legacy CCR surface impoundments have been in place for decades. More recently, these units were closed under the oversight of a regulatory authority and now have controls in place to reduce risk. Delaying potential compliance with the federal closure requirement for a comparatively short period of time until a site-specific examination of the units and their completed closure can be completed by a permit authority is unlikely to significantly change the environmental conditions or risks at these facilities. The risk associated with the deferral is further attenuated by the ongoing requirement for groundwater monitoring and corrective action. While the units were already closed once under the oversight of a state or other authority and so environmental controls may be in place, if the unit contaminates groundwater, the groundwater monitoring system would identify it. The corrective action requirements would then require remediation to ensure no adverse effects to health and the environment.

At the time of permitting, the permitting authority would evaluate the unit more closely—with the benefit of site-specific information—to determine the “equivalence” of closure conducted under the state or alternate authority. EPA is not proposing to revise this process established under § 257.101(g)(6). At this stage, additional closure and/or post-closure requirements may be imposed by the permitting authority to achieve compliance with the Part 257 regulations including the closure performance standard. As such, the unit will ultimately achieve compliance with the Federal closure performance standard—just under the oversight of a permitting authority, rather than under a self-implementing framework.

Therefore, EPA is proposing that owners or operators of legacy CCR surface impoundments that have completed a closure prior to November 8, 2024, where a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015; a groundwater monitoring system has been installed; and groundwater monitoring has been performed would be eligible to defer compliance with the applicable closure performance standard until permitting. The owner or operator would need to document they meet the criteria in an owner-or-operator certified report. EPA is proposing to require this documentation be completed within six months of the effective date of the rule,

if finalized. This compliance timeframe was used for the original deferral certification at § 257.101(g). EPA expects this will provide ample time for the owners and operators to prepare the necessary documentation.

Solicitation of comment. EPA is also soliciting comments on an alternative to this proposal that would allow owners and operators of legacy surface impoundments to defer compliance with the closure performance standard until the CCR permit authority can make a site-specific determination regarding the 'equivalence' of the previously conducted closure. Specifically, EPA is soliciting comment on potential changes to § 257.101(g) to expand the deferral criteria for legacy CCR surface impoundments to owners and operators that completed closure of the unit under state or federal regulatory authority prior to November 8, 2024, where a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015. In this alternative, installation and operation of a groundwater monitoring system would not be required for an owner or operator to avail themselves of the deferral. This alternative approach would solely require that the owner or operator document that the closure of the unit, and any necessary corrective action, was actively overseen by a regulatory authority to qualify for the deferral. However, under this alternative, the same information as required under the proposed option would be required at the time of permitting.

EPA expects this option would allow a greater number of additional units to qualify for the deferral than the proposed approach. Similar to the proposed approach, all units for which closure decisions were deferred to permitting, would be required to comply with the groundwater monitoring, corrective action, and any applicable post-closure requirements at least until a permit authority permits the unit. The advantages of this alternative approach are the same as for the proposed approach but would likely be realized at a greater number of units. Much like the proposed approach, this alternative approach would ensure that previous decisions made by State or Federal regulators remain unaffected until the CCR permitting program can conduct site-specific evaluations. This alternative approach would also allow for greater continuity in the short term and would ensure EPA does not require compliance with additional subtitle D requirements that may not result in

benefits to human health or the environment unless and until it is determined that additional closure activities are indeed necessary.

The disadvantage of this approach, relative to the proposed approach, is that it may result in delays and a greater burden on the CCR permit authority to determine the protectiveness of the completed closure without historic groundwater monitoring data for the units in question. Additionally, deferring compliance with the existing closure performance standards at a greater number of units until permitting, may result in a greater potential for adverse effects on human health or the environment in the interim at a greater number of facilities. Those potential impacts may be exacerbated by delays in permitting if more closure "equivalency" determinations are deferred to permitting and there isn't sufficient groundwater monitoring data to evaluate the protectiveness of the completed closures in a timely manner.

However, as noted and described above, EPA received information during the Legacy Rule development and since finalization from utilities and trade groups arguing that CCR unit closures performed under the oversight of other regulatory authorities (e.g., state programs) are adequate. This information includes several examples of unit specific closures with oversight from state or other regulatory programs. Additionally, the descriptions of the regulatory programs provided to EPA note that risk assessments were conducted, the regulatory authorities conducted a variety of oversight activities, and groundwater monitoring and corrective action were required to help ensure the closures remain protective. Moreover, it's worth noting that these units would still be subject to the groundwater monitoring, closure and any necessary corrective action and post-closure care requirements. See § 257.100(f). As such, EPA is taking comment on this alternative approach and, if supported by sufficient factual comments, may finalize this approach.

If EPA were to finalize this approach, EPA would amend the criteria for deferral in § 257.101(g) to consist only of documentation that a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement, and the certification as to the veracity of the information. Specifically, EPA would remove the existing criteria in § 257.101(g)(2) through (4). The process for the CCR permitting program to make the "equivalence" determination or establish additional requirements for the

legacy impoundment would remain unchanged.

Additionally, due to the practical limitations and inherent uncertainty related to the record, EPA requests comment on the adequacy of the record for the proposal and the alternative option upon which EPA is soliciting comment and, to the extent any gaps are identified, requests suggestions for sources of additional information. As described above, during the rulemaking for the Legacy Rule, the Agency had received information to demonstrate that previous closure decisions made under state or other regulatory authorities will protect human health and the environment. Since promulgation of the Legacy Final Rule, the Agency received additional information describing a handful of state programs and several individual, site-specific closure decisions. In acknowledgement of the additional information received, and to realize the benefits described above, this proposal offers greater deference to the state and other regulatory authorities that made these closure decisions previously. EPA expects that those authorities would not have approved of closures that presented a reasonable probability of adverse effects to human health and the environment.

However, the Agency lacks a record that unequivocally demonstrates that all closure decisions made by other regulatory programs will be similarly protective—in the near term—as applying the Federal CCR closure requirements immediately. Such a record would consist of a detailed review of all state CCR programs as well as other relevant regulatory programs that may have overseen legacy CCR unit closures. This review would need to provide a detailed understanding of the programs at the points in time the relevant closure decisions had been made. At present, EPA has information on a handful of state programs and several site-specific closure decisions. While meaningful, this information doesn't speak to every previous closure decision that had been made. For example, even for closures conducted under voluntary programs, the level of oversight of those programs may vary between states. In some states, the voluntary closure may entail significant oversight, (e.g., regulator review and approval of the closure and groundwater monitoring plans, review of groundwater monitoring data) but not necessarily in all states. EPA will consider such information submitted as it develops the final action.

3. CCR Management Units

In the Legacy Final Rule, EPA established requirements to address the risks from exempt solid waste management that involves the direct placement of CCR on the land. EPA extended a subset of the existing requirements in 40 CFR part 257, subpart D to these units, which are CCR surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule, inactive CCR landfills, and other areas where CCR is managed directly on the land. These additional requirements apply to all active CCR facilities, all inactive facilities with legacy CCR surface impoundments, and those active facilities (*i.e.*, facilities producing electricity for the grid as of October 19, 2015) that ceased placing CCR in onsite CCR units prior to the effective date of the 2015 CCR Rule (“other active facilities”).

In the preamble to the Legacy Final Rule, EPA discussed the rationale of the definition of “CCR management unit” and the scope of what would be considered a CCRMU under the final rule. See 89 FR 39044–39051. EPA finalized this definition based on damage cases, the 2024 risk assessment, and comments received on the Legacy Proposed Rule. Many of the Legacy Proposed Rule comments argued that the definition of CCRMU is overly broad and treats many different disposal areas as a worse-case scenario. Commenters further stated that the scope of the CCRMU universe ignores the risk profiles of different historic disposal areas and forces actions not tailored to the specific units. The comments also said a one-size-fits-all approach to CCRMU does not make sense given the widely variable risk profiles within this newly defined category of regulated units.

In 2025, EPA received several letters from the regulated community, including a coalition of regulated entities,¹⁵ USWAG,¹⁶ National Rural Electric Cooperative Association (NRECA),¹⁷ Cross-Cutting Issues Group

(CCIG),¹⁸ Edison Electric Institute (EEI),¹⁹ American Electric Power (AEP),²⁰ PacifiCorp,²¹ Talen Energy via the National Energy Dominance Council,²² and others that recommended changes to the CCRMU requirements. The letters suggested these changes were supported by several critiques of the Legacy Final Rule and the 2024 Risk Assessment, and recent Executive Orders, including “Reinvigorating America’s Beautiful Clean Coal Industry and Amending Executive Order 14241” (April 8, 2025).

In many letters, the authors recommended rescinding the CCRMU provisions. In other letters, regulated entities recommend that EPA narrow the scope of CCRMU provisions and clarify certain requirements. Some commenters recommended that EPA: (1) Eliminate the requirement to identify CCRMU containing less than 1,000 tons of CCR; (2) Increase the CCRMU deferral threshold from 1,000 tons to an alternative quantity associated with acceptable beneficial use or to risk-based criteria for stability, groundwater, and dust; (3) Exempt past beneficial use placements and critical infrastructure sites; (4) Exempt areas of CCR accumulation regulated by State agencies, including units closed in accordance with State programs; (5) Establish a baseline to identify potential CCRMU (*e.g.*, facilities operating after a certain date); (6) Establish options to exempt areas listed in the Facility Evaluation Report (FER) as a CCRMU if the CCR material is removed from that area within a specified time period (*e.g.*, an area is exempt if the CCR is removed with one year of the FER Part 2 being published; and (7) Limit the CCRMU definition to past placements that pose identified present risks.

In response to the information presented in the above letters and based on the limitations of a national risk assessment, including the 2024 Risk Assessment, as discussed in Unit III.D. of this preamble, EPA is proposing to

rescind all CCRMU requirements. In the alternative, EPA is soliciting comments on several potential revisions to the existing CCRMU regulations. Each of these potential revisions is intended to address one or more of the issues discussed above. Although the potential revisions are not intended to be mutually exclusive (*i.e.*, EPA may adopt several of them in the final rule), a single revision may address multiple issues. Consequently, it may not be necessary to adopt all the potential revisions to address all the issues that have been raised to the Agency. EPA therefore requests comment on whether all the various revisions discussed in Unit IV.A.3.b. of this preamble are necessary or useful. Commenters are encouraged to consider the combined effect of individual revisions in developing their comments. EPA also requests that, if commenters believe that individual alternatives would address the same issue, they provide views on whether (and why) one alternative is preferable.

Lastly, given that EPA may adopt one or more of the options discussed in Unit IV.A.3.b. of this preamble, EPA solicits comments on the appropriate scope of the FER given the commenter’s preferred option(s). As explained in Unit III.C. of this preamble, the FER Part 1 documents the thorough review of readily and reasonably available records regarding where CCR was either routinely and systematically placed on land, or where facility activities otherwise resulted in measurable accumulations of CCR on land. The FER Part 2 documents the conclusions of a physical evaluation of the facility to address any data and information gaps identified in FER Part 1. Together, the FER Parts 1 and 2 are intended to provide a complete picture of the historic use, placement and the status of CCR at the facility, ultimately identifying any CCRMU of 1 ton or greater onsite. The FER Part 1 requirements regarding record review were based off EPA’s understanding of what documentation would potentially hold information about historic placements that would meet the definition of CCRMU. However, EPA acknowledges that if the scope of the CCRMU universe is modified, the FER requirements, specifically with respect to review of readily and reasonably available records regarding where CCR was either routinely and systematically placed on land, or where facility activities otherwise resulted in measurable accumulations of CCR on land, may warrant modification too. Therefore, EPA solicits comment on the

¹⁵ Duke Energy et al 2025. Letter co-signed by Duke Energy, Vistra Corp, Lower Colorado River Authority, City Utilities of Springfield, Southern Illinois Power Cooperative, Gavin Power, Talen Energy, Basin Electric Power Cooperative, Ohio Valley Electric Corporation, Indiana-Kentucky Electric Corporation, and Louisville Gas and Electric Company-Kentucky Utilities Energy to Lee Zeldin, EPA Administrator. RE: Coal Combustion Residuals Rules Impede U.S. Energy Production. January.

¹⁶ USWAG 2025a. Letter from Daniel L. Chartier, Executive Director, Utility Solid Waste Activities Group to Lee Zeldin, EPA Administrator. RE: Actions for Regulations for CCR. January.

¹⁷ NRECA 2025. Letter from Jim Matheson, Chief Executive Officer, National Rural Electric

Cooperative Association to Lee Zeldin, EPA Administrator. January.

¹⁸ CCIG 2025. White paper reflecting Recommendations Updating the Federal CCR Regulations. Cross-Cutting Issues Group. June.

¹⁹ EEI 2025a. Comments on Site-Specific Closure Alternative Performance Standard. Edison Electric Institute. June.

²⁰ AEP 2025. Meeting handout to EPA’s Office of Land and Emergency Management. American Electric Power. RE: Legacy CCR Rule Reform Regulations. June.

²¹ PacifiCorp 2025. Letter from James Owen, Vice President of Environmental and Energy Resources, PacifiCorp to EPA Region 8. RE: PacifiCorp Priorities in EPA Region 8 States. April.

²² NEDC 2025. Comments from NEDC with CCR Reform Guiding Principles. National Energy Dominance Council. August.

appropriate scope of the FER requirements as they are impacted by the options described below.

a. Rescind All CCR Management Unit Requirements

In response to the letters and requests that EPA has received since January 2025 and based on the limitations of a national risk assessment, including the 2024 Risk Assessment, as described in Unit III.D. of this preamble, EPA is reconsidering its decisions to regulate CCRMU. As stated above in Units III.D. and IV.A.3. of this preamble, EPA received questions about the risk assessment and other comments after the publication of the Legacy Final Rule that said the definition of CCRMU is overly broad.

Some of the information EPA received after publication of the 2024 Legacy Rule suggests that EPA should rescind the CCRMU requirements and is intended to show the infeasibility of the CCRMU requirements. CCIG provided specific examples of this infeasibility in their letter dated June 6, 2025,²³ including rail embankments or railroad roadbed constructed with CCR components that would pose logistical challenges for groundwater monitoring, CCR used as drainage layers above composite liners, CCR used in embankments, CCR used to construct over 10 miles of road at the facility, previously closed surface impoundments below plant infrastructure, an active landfill on top of a previously closed unit, CCRMU under a natural gas pipeline, CCR used as fill for the construction of the facility that processes and encapsulates CCR for beneficial use, and units that were near closure but would be considered CCRMU. CCIG also said that requiring the removal and replacement of the wide range of uses of CCR that fall under the broad CCRMU definition, including those described above, will end up causing cascading issues that potentially could impact reliability, force the use of virgin resources, and impose burdensome, unnecessary costs on energy companies and their customers. Therefore, based on the reasons above CCIG recommended EPA rescind the CCRMU requirements. Other commenters stated that rescinding the CCRMU provisions was justified as the court in the 2018 *USWAG* decision only required regulation of legacy CCR surface impoundment and not CCRMU. Many of these letters also state that CCRMU should be “eliminated”

because: (1) The record has not been fully developed to support regulating CCRMU, and (2) Significant compliance costs outweigh any potential benefits to address unproven risks. Several of the entities also claim the CCRMU regulations impose infeasible, impracticable, and overly burdensome requirements on energy companies with significant costs that would eventually be placed on consumers.

Other letters stated that EPA’s 2024 Risk Assessment does not support the overly broad CCRMU definition or demonstrate that all CCRMU pose a reasonable probability of adverse effects on health or the environment. The letters noted that the national risk assessment was based on high-end risks and did not accurately capture the variability of risk posed by units at many facilities. The authors conclude that EPA’s Risk Assessments systematically overstate the risk from CCR disposal units and fills, and that it would be more effective and appropriate to assess risks on a site-specific basis. Furthermore, the commenters state that EPA did not justify the CCRMU regulations through a proper risk assessment.

As explained in Unit III.D. of this preamble, EPA uses a national risk assessment for a particular source or industry category to inform its decision concerning whether a regulatory program is needed or in need of revisions. Both the 2014 and 2024 Risk Assessments were designed to capture the full spectrum of potential disposal scenarios across the country with available data and decisions about the need for national regulations were based on high-end risks identified from across these scenarios, considered together with proven damage cases, to ensure that regulations would be consistently protective. The Agency acknowledges that these high-end risks may not manifest at every site and concurs that risks associated with individual CCR units may be lower. This is equally true for disposal units, fills, piles, and unencapsulated accumulations on the land for any other stated purpose.

In addition, EPA is proposing to find the current definition of CCRMU is overly broad, capturing units that under this proposal would not involve “disposal.” Specifically, EPA’s proposed changes affecting beneficial use and storage of CCR would result in the existing definition of CCRMU encompassing some units that do not involve “disposal” as defined § 257.53. As explained in more detail in Unit IV.C., EPA is proposing to revise the definition of beneficial use to eliminate the distinction between on-site and off-

site activities, and to eliminate the definition of a CCR pile. If those proposals are adopted, the current definition of a CCRMU as “area of land on which any noncontainerized accumulation of CCR is received, is placed, or is otherwise managed,” would also capture CCR storage units and beneficial use projects (other than roadbed and associated embankments, which are explicitly excluded from the definition) and consequently would not involve the disposal of CCR. See definition of “disposal” in § 257.53, which states “For purposes of this subpart, disposal does not include the storage or the beneficial use of CCR.”

EPA acknowledges that this is a change in position from previous statements in the 2024 CCR Legacy Rule, which stated that direct placement of CCR on the land onsite of a utility, with nothing to control releases is, by definition, a CCR pile and therefore not beneficial use (while, in contrast, CCR that is beneficially used *off-site* is not a CCR pile), and then further referenced statements from the 2015 CCR Rule that CCR piles constitute disposal and are consequently subject to all regulatory criteria applicable to CCR landfills. (89 FR 39050).

However, as explained in more detail in Unit IV.C., EPA’s proposed revisions would ensure consistency and clarity across all settings in accurately identifying which practices are beneficial use or storage, and not disposal.

Finally, EPA finds that the existing definition of CCRMU runs afoul of several recent executive orders: Executive Order 14154 “Unleashing American Energy,” 90 FR 8343 (January 29, 2025); Executive Order 14156 “Declaring a National Energy Emergency,” 90 FR 8433 (January 30, 2025); and Executive Order 14219 “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative,” 90 FR 10583 (February 25, 2025). EPA is proposing to rescind the CCRMU provisions consistent with those directives.

Therefore, based on the information above, along with the conclusions stated in Unit III.D. of this preamble, EPA is proposing to remove the CCRMU regulations from 40 CFR part 257, subpart D. In particular, EPA is proposing to amend or remove the following regulatory text sections, such that CCRMU are no longer units regulated under 40 CFR part 257: §§ 257.50(d); 257.53: definitions of “CCR management unit”, portion of “CCR unit”, “Closed prior to October 19, 2015”, “Critical infrastructure”,

²³ CCIG 2025. White paper reflecting Recommendations Updating the Federal CCR Regulations. Cross-Cutting Issues Group. June.

“Inactive CCR landfill”, and “Regulated CCR unit”; 257.75; 257.90(b)(3); a sentence from 257.90(e); change 257.95(b) back to 2015 CCR Rule language; references to CCRMU in 257.100(h)(2); 257.101(f); portions of 257.101(g); 257.101(h); title of 257.102; 257.102(b)(2)(iii) and (v) and renumber (iv) to (iii); 257.102(f)(1)(iii); 257.100(f)(2)(ii)(E) and (F), 257.104(d)(2)(iii); 257.105(f)(25) and (26); 257.106(f)(24) and (25); 257.107(f)(24) and (25).

b. Alternative Approaches for Comment

As stated above, EPA is soliciting comment on several alternative approaches to address the concerns laid out in Units III.D. and IV.A.3. of this preamble regarding the CCRMU regulations. Specifically, EPA is soliciting comment on: (1) Deferring all CCRMU requirements, other than the requirement to complete the facility evaluation, to permitting; (2) Establishing groundwater monitoring and corrective action zones for CCRMU; (3) Exempting past onsite CCR uses that meet the definition of beneficial use; (4) Expanding the roadbed exemption; (5) Expanding the deferral criteria for certain CCRMU closures to permitting; (6) Removing “other active facilities” from the regulated universe; and (7) Developing a new threshold for CCRMU. EPA will consider comments on the proposal and all these options before making a final decision. If EPA elects to not rescind all regulation of CCRMU, EPA may select one or several of the options to finalize. For example, EPA may choose to only finalize the option to defer all CCRMU requirements aside from the facility evaluation to permitting. Alternatively, EPA may choose to finalize the options to defer all CCRMU requirements aside from the facility evaluation to permitting, expand the roadbed exemption, and exempt past onsite CCR uses that meet the definition of beneficial use. If EPA were to finalize this combination of options, the result would be a much smaller CCRMU universe consisting primarily of inactive landfills and units closed prior to 2015, which would only be subject to the facility evaluation requirements in § 257.75 until such time that the permit authority could evaluate these units. Since EPA is soliciting comment on several other alternative approaches to amending the scope of the CCRMU universe, EPA is not including these regulatory changes in the proposed regulatory text in this rule, as it could cause confusion for the reader. However, EPA will describe the regulatory text changes these alternative approaches would have if finalized in

the preamble below. EPA requests comment on the proposed regulatory text changes as well as these alternatives, as well as how EPA should revise the FER requirements considering the alternatives below.

i. Deferral of CCR Management Unit Requirements To Permitting

EPA is taking comment on an alternative approach to addressing the issues identified in Units III.D. and IV.A.3. of this preamble with the existing CCRMU regulation. Under this alternative approach, owners or operators of regulated CCR units would still be required to complete the two-part FER to identify and delineate CCRMU at the facility. However, the requirement to comply with the remaining CCRMU regulations would be deferred until a CCR permit authority is able to evaluate the risks posed by these units and determine which requirements are appropriate for the CCRMU. Essentially, under this alternative approach, all CCRMU would be treated the same as CCRMU containing between 1 and 1,000 tons are treated under the existing regulations.

In the Legacy Final Rule, EPA finalized facility evaluation, fugitive dust, groundwater monitoring, corrective action, closure, and post-closure care requirements for CCRMU. As a result of the Legacy Final Rule, owners or operators of regulated CCR units are required to conduct a facility evaluation to identify and delineate any CCRMU containing one ton (or more) at the facility and document the findings in two reports. In addition, owners or operators of a regulated CCR unit are required to ensure that all identified CCRMU containing 1,000 tons or more comply with the existing requirements in 40 CFR part 257, subpart D for groundwater monitoring, corrective action (where necessary), recordkeeping, notification, and internet posting and in certain cases, closure, and post-closure care requirements. Regulation of CCRMU between one and 1,000 tons is deferred until a subsequent permit authority can assess the risks posed by these smaller CCRMU, individually or in the aggregate, and determine which, if any, requirements are appropriate for the CCRMU. In addition, the Legacy Final Rule deferred the requirement to demonstrate compliance with § 257.102 for CCRMU that closed prior to the effective date of this rule in accordance with alternative, substantially equivalent requirements (§ 257.101(g)). EPA also deferred the requirement to initiate closure where the CCRMU is located beneath critical infrastructure, such as high power

electric transmission towers, air pollution control or wastewater treatment systems, or an electrical substation, until whichever occurs first: (1) the infrastructure is no longer needed, (2) a permit authority determines closure is necessary to ensure that there is no reasonable probability of adverse effects on human health or the environment, or (3) the closure or decommissioning of the facility. See § 257.101(h).

However, as described in greater detail above, since finalization of the Legacy Rule, EPA has received many letters from regulated entities suggesting: (1) The record has not been fully developed to support regulating CCRMU, (2) Significant compliance costs outweigh any potential benefits to address unproven risks, (3) CCRMU regulations impose infeasible, impracticable, and overly burdensome requirements on energy companies with significant costs that would eventually be placed on consumers, and (4) the self-implementing structure is not appropriate to address the variability in risk posed by the broad scope of units regulated as CCRMU. As noted above, EPA is considering and requesting comment on an alternative regulatory structure which would help alleviate some of these concerns. Specifically, under this alternative approach, owners and operators of covered facilities would still be required to complete the two-part facility evaluation report to identify and delineate CCRMU at the facility. However, the application of additional CCR unit regulations would be deferred until the CCR permit program assess the risks posed by the identified CCRMU, individually or in the aggregate, and determine which, if any, requirements are appropriate for the CCRMU.

This alternative approach would address these concerns by allowing the CCR permit authority to make a site-specific, risk-based decision as to what requirements are appropriate to apply to any given CCRMU individually, or in aggregate, at a facility. Such an approach would leverage the expertise and judgement of the CCR permit authority while taking into account the variability in CCRMU and site-specific considerations. Allowing for greater site-specific decision-making would allow for risk-based decisions to result in potentially more efficient outcomes that could avoid unexpected complications and issues or require compliance with provisions that result in no benefit to health or the environment. For example, CCIG claimed that the current national standard requiring the removal and

replacement of the wide range of uses of CCR that fall under the CCRMU definition will end up causing cascading issues that potentially could impact reliability, force the use of virgin resources, and impose burdensome, unnecessary costs on energy companies. Additionally, this option would allow for impacts on infrastructure to be considered. For example, there are examples where energy, waste, water, transportation or other vital infrastructure have been built on top of previously closed CCRMU. The Legacy Rule attempted to address this situation at § 257.101(h) by providing national criteria for deferring the closure requirements for the CCRMU. However, this alternative option would provide a permit authority greater flexibility and ability to adapt regulatory requirements to the unique needs of the situation. Notably, this alternative approach would extend a permit writers' flexibility beyond just the closure requirements, allowing permit writers to adjust, within the standards set forth in the revised rule, the regulatory requirements in part 257 (e.g., more appropriate groundwater monitoring requirements could be developed) on a case-by-case basis to account for individual site conditions. Since most of these CCRMU have been in place for decades, delaying potential compliance with the federal requirements for a comparatively short time until a permit authority evaluates these units is unlikely to dramatically change the environmental conditions or risks at these facilities.

Such an approach could still pose no reasonable risk of adverse effects to health or the environment. State permitting and waste programs have a comparatively long history of implementing state requirements at CCR units including CCRMU. EPA has received a substantial amount of information regarding CCR oversight and regulation by state programs to demonstrate that site-specific decisions made by these authorities are protective. See Units IV.A.2. and IV.B.2.a. of this preamble. This includes, in some instances, examples of state oversight of cleanups or closures of CCRMU.

For example, TVA provided EPA with information about Tennessee's CCR program. This information suggests that site-specific human health and ecological risk assessments conducted in the program follow EPA protocols. According to the information provided, the risk assessments have found that there are no unacceptable risks related to CCR management identified for all receptors at most sites across the TVA's portfolio. Additionally, potential risk to

future workers, where identified, would be mitigated by health and safety protocols. The information provided also speaks to how the state handles closure and corrective action. The state's closure decisions factor in ongoing operations, planned extraction of CCR for beneficial use, risk assessment results, qualitative impacts, and stability assessments. Tennessee's corrective action program, meanwhile, incorporates risk assessment results and statistical evaluation of groundwater sampling data to assess regulatory requirements. The utility explains that no corrective actions have been identified to address unacceptable risks, but localized groundwater corrective actions are required at some units to meet the groundwater protection standards.

Talen Energy provided information pointing out that states, such as Pennsylvania, have had Residual Waste regulations that have been used to address CCR for decades. State-level Dam Safety regulations also exist and apply to certain CCR units. The utility stated that these regulations and associated oversight ensure the safe and environmentally-acceptable closure of CCR units. Talen Energy argued that the federal CCR program needs a better mechanism to recognize prior state approvals and regulatory requirements which may be equivalent or as protective as the federal CCR requirements.

Additionally, during the Legacy Rulemaking, EPA received public comments arguing that state programs had become significantly more robust over the past couple of decades and, specifically, since 2015 when EPA last conducted a review of state programs. For example, Duke Energy provided information on North Carolina's CCR program. The utility claims that there are no gaps within the state program and that the state's groundwater rules establish robust groundwater monitoring and corrective action programs. Duke Energy proceeded to describe aspects of the program's closure requirements suggesting that the closure plans are comprehensive and subject to significant regulatory oversight and public participation. The key assertions are as follows:

- The closure plans, among other things, require the results of a hydrogeologic, geologic, and geotechnical investigation of the site; the results of groundwater modeling of the site; a description of the provisions for disposal of wastewater and management of stormwater; a description of the provisions for the final disposition of the CCR; and a

description of the plan for post-closure monitoring and care for an impoundment for a minimum of 30 years.

- The closure plan approval process includes public participation component involving public notice and comment and public meeting(s) in county(ies) in which the site is located. After an opportunity for public comment, NCDEQ makes the final determination as to the protectiveness and adequacy of the closure plan.

Moreover, Duke Energy provided several examples of CCRMU for which North Carolina has required closure activities through existing state authorities. Here is a description of the way in which North Carolina assessed and addressed CCRMU according to the information provided. First, in 2017, the state required the utility to assess and remediate or close what the state called "primary sources" and "secondary sources"—not just the CCR surface impoundments—across 14 coal ash facilities in the state. These "primary sources" and "secondary sources" appear to meet the definition of CCRMU had EPA defined that concept in 2017 and would also capture contamination from CCRMU. In response, the utility developed a staged plan to address these CCRMU. The first stage involves CCRMU located near CCR surface impoundments so if there were any soil and groundwater contamination from the CCRMU, the impacts would be addressed along with the CCR surface impoundments. The second group involves CCRMU located where a groundwater divide or surface water area separate these potential primary sources from the CCR surface impoundments. These CCRMU were investigated independent of CCR surface impoundments, and assessment and corrective action is subject to a separate and distinct plan from the surface impoundments. The state later required Duke Energy to prepare updated comprehensive site assessments and updated corrective action plans to address the CCRMU identified by the utility in response to the 2017 request.

In total the utility identified 25 CCRMU. Based on the information provided, seven have already been fully excavated, six have excavation in progress, four are planned to be excavated, four have been closed and capped with a synthetic cover, two are in the process of being closed with a synthetic cover, and two are undergoing further investigation by NCDEQ. Duke Energy concluded that no CCRMU are being ignored, and the foregoing demonstrates that the actions being undertaken pursuant to strict state

oversight are sufficiently protective to not pose a reasonable probability of adverse effects to health or the environment.

Other commenters presented individual examples of CCRMU that had been closed in accordance with State requirements, which the commenters believed would demonstrate the State closures were equally as protective as those conducted in accordance with § 257.102. These included the following examples:

- A facility has an approximately 20-acre dry stack landfill with 20 plus years of groundwater monitoring that does not show groundwater exceedances, zero potential receptors downstream (from the direction of groundwater) that use wells for drinking water (also no potable wells within a two-mile radius). The landfill construction using best practices to minimize erosion potential, including only placement of stabilized material in the landfill, perimeter ditch surrounding the entire landfill to collect any runoff that is processed before discharge, and the unit is regulated by the Florida Department of Environmental Protection that includes semi-annual groundwater monitoring results review and yearly onsite regulatory inspections.

- Another facility had two CCRMU landfills that were closed prior to the effective date of the 2015 CCR Rule and were closed in accordance with the State of Florida's Chapter 62–701, F.A.C., for municipal and solid waste landfills. Neither landfill was built on top of a liner system. The closed landfills were subject to design criteria for cover systems and stormwater management, as well as long-term operations and maintenance provisions. The groundwater monitoring system requirements for landfills in Florida are similar to, but not the same as, those in the 2015 CCR rule. Both closed cells would be subject to corrective action if dictated by the monitoring program. Maintenance, inspections, and repair of the cover systems, as needed, are also part of the long-term care program.

- Another facility reported closing an inactive CCR landfill in the 1980s. The 20-acre site was used to dispose of bottom and fly ash, including scrubber sludge. The owner performed monitoring of a nearby spring to demonstrate whether any ponded water was leaking. Upon visual inspection, it was determined that the bentonite/clay-lined pond remained intact throughout the active operation of the landfill. However, because of the age of the site, groundwater monitoring wells were not required.

Since the finalization of the Legacy Rule, EPA also received a survey of a select set of state risk-based regulatory programs. This survey compared the components of some of these programs to CERCLA and RCRA Subtitle C and states that the risk-based programs are based on scientific principles supporting regulatory consistency, scientific integrity, and practical implementation. Additionally, the survey provided some additional information on certain state program examples which, the survey concludes, demonstrate their regulatory efficiency and effectiveness. The survey cited the Texas Risk Reduction Program, Colorado Voluntary Cleanup and Redevelopment Program, Michigan Part 201 Cleanup Program, Virginia Voluntary Remediation Program, Massachusetts Contingency Plan Waste Site Cleanup Program.²⁴

As noted above in Unit III.D., the 2024 Risk Assessment is a national risk assessment and not representative of risk posed by all CCR units at all facilities. Additionally, as described in Unit III.D. of this preamble, EPA has the ability to rely on permit authority's oversight to tailor the CCR requirements and provide greater flexibility to owners or operators while ensuring there is no reasonable probability of adverse effects on health or the environment from the regulated units. Deferring the application of most of the CCRMU requirements to the CCR permitting program would allow for a greater understanding of the risk posed by these units and could result in more appropriate, tailored regulatory requirements being applied to the units. Moreover, the issuance of a CCR permit will involve public comment and are final actions that could be challenged administratively, and in federal or state court. In consideration of the information above and in Unit IV.A.2. of this preamble regarding state programs and the potential advantages of deferring application of most of the CCRMU requirements to the CCR permitting program, EPA is soliciting comment on this option.

²⁴ The regulations already contain two pathways for legacy impoundments to certify closure by removal (*i.e.*, § 257.100(g)(1)–(6) for those with available groundwater data and § 257.100(h) for those units that needed to conduct additional groundwater monitoring). These two paths are unchanged by this proposal. The third, proposed, avenue for certification of closure by removal is an additional avenue not intended to disrupt, supersede, or otherwise alter the two existing avenues.

Haley Aldrich, *Report on Joint Data Analysis to Support Revisions to Federal Regulation of Coal Combustion Residuals*. September 2025.

After a review of submitted comments, EPA will determine if there is sufficient support to finalize this approach in its final action. If EPA were to finalize such an approach, EPA would amend § 257.50(d) to read: CCR management units located at active facilities or facilities with a legacy CCR surface impoundment are subject only to the requirements of the facility evaluation report in § 257.75 until a permit authority determines that regulation of these units, either individually or in the aggregate, is warranted and determines the applicable requirements. EPA would, accordingly, also rescind §§ 257.90(b)(3), 257.100(h)(v) through (ix), 257.101(f) and (h), 257.102(b)(2)(iii) and (v), 257.102(f)(1)(iii), 57.102(f)(2)(ii)(E) and (F), and 257.104(d)(2)(iii). EPA would also remove reference to CCRMU from § 257.101(g).

In addition to the alternative above and for the same reasons in Unit IV.A.2.b., EPA requests comment on the adequacy of the record for the alternative option upon which EPA is soliciting comment and, to the extent any gaps are identified, requests suggestions for sources of additional information. As several regulated entities have raised concerns with scope of the search required for information concerning historical CCR placement (*e.g.*, interviews of former employees, files in digital formats no longer supported), EPA is also seeking comment on whether the scope of the effort required to search for information concerning the location of CCRMU needs clarification.

ii. Establishing Groundwater Monitoring and Corrective Action Zones for CCRMU

EPA is soliciting comment on an option to establish the equivalent of a hazardous waste facility's "area(s) of concern" or "solid waste management area(s)" for facilities with CCRMU for compliance with groundwater monitoring and corrective action. Specifically, this would allow owners or operators of CCRMU to establish a CCRMU groundwater monitoring and corrective action zone that contains multiple CCRMU and would be monitored by a single groundwater monitoring system.

The existing regulations allow owners or operators of CCR units to monitor groundwater at multiple units with a single groundwater monitoring system (*i.e.*, a multiunit groundwater monitoring system). 40 CFR 257.91(d). A multiunit groundwater monitoring system must be equally capable of

detecting background and groundwater contamination at the waste boundary as an individual monitoring system. The regulation further specifies that this determination must be based on the consideration of several factors, including the number, spacing, and orientation of the CCR units, the hydrogeologic setting, the site history and the engineering design of the CCR units. A qualified professional engineer must certify this demonstration. Whether a single or multi-unit system has been installed, the monitoring wells must be cased in a manner maintaining the integrity of the borehole and must be maintained to meet design specifications.

As discussed in the preamble to the Legacy Final Rule, the existing groundwater monitoring and corrective action requirements are essentially the same requirements that have been applied to both hazardous waste and municipal solid waste disposal units for decades. The preamble further states there is nothing about CCRMU that makes them distinct enough to warrant separate groundwater monitoring requirements from other CCR units. Therefore, EPA finalized the requirement that owners or operators of CCRMU comply with the existing groundwater monitoring and corrective action provisions in 40 CFR part 257.

However, since finalization of the 2024 Legacy Rule, members of the regulated community have continued to express the need for alternative groundwater monitoring requirements, such as expanded multiunit or facility-wide groundwater monitoring. These utilities have pointed to the difficulty of determining CCRMU boundaries and the prevalence of CCRMU across the facility. Specifically, commenters have stated that the widespread historic practice of placing non-containerized CCR across a facility coupled with lack of historical documentation results in uncertainty regarding the boundaries of CCRMU, even with the field sampling required as part of the facility evaluation. Some companies have expressed concern about finding CCRMU as a result of complying with the groundwater monitoring and corrective action requirements (*e.g.*, while determining the source of potential contamination) or through future development projects onsite (*e.g.*, encountering CCR while conducting earthwork for new infrastructure). Other utilities have raised concerns regarding the appropriateness of the existing groundwater monitoring requirements when the CCRMU being monitored is miles long (*e.g.*, a haul road or perimeter road) or quite numerous. Furthermore,

members of industry have expressed that the Agency should allow facilities to adopt an area-wide or facility-wide groundwater monitoring and corrective action approach where: (1) the facility has a large number of CCRMU such that it is not practical to monitor and clean-up each CCRMU individually, or (2) the facility demonstrates that no contaminants are migrating offsite or otherwise causing off-site impacts. The commenters stated that an area-wide or facility-wide approach would allow facilities to address risk posed by CCRMU in a more holistic way, where appropriate.

Based on this information, the EPA is now aware of instances where the characteristics of the CCRMU, such as the size and shape (*e.g.*, lengthy roads), or the prevalence (*e.g.*, numerous CCRMU across the facility) justify a different approach to groundwater monitoring. Therefore, the Agency is soliciting comment on whether a more holistic approach, often referred to as either “area(s) of concern” or “solid waste management area(s)” in hazardous waste facility permits or orders would be appropriate to apply to CCRMU. Under this approach, owners or operators of CCRMU would have greater flexibility to establish groundwater monitoring networks around multiple CCRMU. This approach would allow the owner or operator to designate an area of the facility where multiple CCRMU are present as a “CCRMU groundwater monitoring and corrective action zone,” essentially creating a single CCRMU for the purposes of groundwater monitoring and corrective action. This would allow a single groundwater monitoring system to be used in areas where it is difficult to determine exactly where the CCRMU waste boundaries are located, either due to historical CCR placements, the sheer number of co-located or nearby disposal areas, or any gaps in records related to past practices. As an example, if CCR was disposed of in multiple locations throughout the facility in a manner that makes it difficult to determine the precise waste boundaries of each CCRMU for the purposes of groundwater monitoring, the owner or operator could designate an area as a CCRMU groundwater monitoring and corrective action zone and utilize a single groundwater system around that area. In such cases, where CCRMU are located throughout the facility, the owner or operator could decide to combine some or all CCRMU, effectively creating a facility-wide groundwater monitoring network that encompasses all the CCRMU at the facility. When designating CCRMU groundwater

monitoring and corrective action zones, the owner or operator must ensure the groundwater monitoring system is capable of readily detecting groundwater conditions in the uppermost aquifer that are representative of any potential contamination from CCRMU within the zone.

The Agency is requesting comment on the reasons owner or operators consider the existing multiunit approach to be infeasible or otherwise problematic to implement for CCRMU. Further, EPA is soliciting site-specific examples of the need for combining CCRMU into CCRMU groundwater monitoring and corrective action zones (*i.e.*, the equivalent of “area(s) of concern” or “solid waste management area”) for the purpose of groundwater monitoring. EPA specifically requests examples where the owner or operator would need to combine CCRMU across the facility into a single CCRMU groundwater monitoring and corrective action zone, essentially creating a facility-wide groundwater monitoring network. Lastly, the Agency is requesting comment on whether this approach would be beneficial considering the other options EPA is soliciting comment on for CCRMU and which, if any, of the various other options under consideration that commenters believe should be combined with this option to make compliance with the groundwater monitoring regulations practically feasible.

iii. Exempt Past Onsite CCR Uses That Meet the Definition of Beneficial Use

As discussed in Unit IV.C. of this preamble, EPA is proposing a new definition of “beneficial use” at § 257.53, which would eliminate the fourth criterion, recognizing that the first three criteria in the beneficial use definition provide a sufficient framework for identifying when any placement of CCR on the land, whether encapsulated or non-encapsulated, roadway or non-roadway, constitutes a beneficial use rather than disposal for purposes of 40 CFR part 257. EPA also is proposing that this definition apply equally to all CCR beneficial use projects, whether conducted onsite at the generating utility or offsite.

However, EPA notes that the revised definition of beneficial use would not apply retroactively. Several stakeholders have raised the issue of exempting past CCR uses at utilities that meets the definition of “beneficial use.” Thus, EPA is requesting comment on including an exemption from the definition of CCRMU for

unencapsulated CCR uses, regardless of when such use occurred, that meet the definition of beneficial use, unless such a use is causing or contributing to a statistically significant level above the groundwater protection standard.

Such an exemption would encompass both the current and the proposed expanded roadbed exemption and would also apply to non-roadway beneficial uses of unencapsulated CCR, such as engineered structural fill, both past and present, if they meet the first three criteria in the beneficial use definition.

iv. Expand the Roadbed Exemption

Under the current regulations any CCR used in roadbed and associated embankments is not considered to be a CCRMU. See definition of “CCR management unit” at § 257.53. As EPA explained in the 2015 CCR Rule preamble, the methods of application, including the amounts and manner of CCR use, for roadbeds and associated embankments are sufficiently different from CCR landfills that EPA cannot extrapolate from the available risk information to determine whether these activities present similar risks. Roadways (*i.e.*, roadbed and associated embankments) are subject to engineering specifications and material requirements. For example, the engineering specifications for roadbeds generally specify CCR to be placed in a thin layer (*e.g.*, six to 12 inches) under a road. The placement of CCR under the surface of the road limits the degree to which rainwater can influence the leaching of the CCR. There are also significant differences between the way roadways and landfills can potentially impact groundwater, such as the nature of mixing in the media and the leaching patterns. First, CCR landfills can generally be represented as a homogeneously mixed system. By contrast, roadways are generally constructed of several layers with different material properties (heterogeneity). This difference affects the hydraulic conductivity of a mass of CCR in a landfill, as compared to CCR placed in an embankment. Any potential leaching will tend to spread over the length of the embankment, as opposed to the leaching in a downward motion that would occur in a homogeneously filled landfill. Furthermore, the construction of roadways is supervised and approved by State or Federal Department of Transportation (DOT) engineers who ensure compliance with engineering specifications. Finally, EPA is concerned that groundwater monitoring

of a roadway may not be practicable. See 80 FR 21353 and 89 FR 32018.

Even though EPA considers that the available information does not demonstrate that use in roadway presents sufficient risk to warrant the suite of requirements applicable to CCRMU, that conclusion changes in the event the CCR in roadbed or associated embankments is contaminating groundwater. Accordingly, if an owner or operator subsequently determines that the CCR in onsite roadbed is contributing to contamination to the aquifer, the owner or operator is required to address the contamination. For example, if during an ongoing corrective action, an owner or operator identifies the roadbed as an additional source of contamination, it would be required to address that contamination as part of the ongoing remediation of the aquifer.

Since 2025, EPA received letters requesting that EPA expand the exemption of “roadbed and associated embankments” in the CCRMU definition in § 257.53 to interpret those terms to include all use of CCR in construction of roads, railbeds, and embankments and similar uses (unless, as is currently stated in the definition, “the roadbed is causing or contributing to a statistically significant level above the groundwater protection standard”). See Merriam-Webster, *Roadbed*, <https://www.merriam-webster.com/dictionary/roadbed> (last visited September 17, 2025); general definition of “roadbed” includes “the bed on which the ties, rails, and ballast of a railroad rest.” According to members of industry, these clarifications are consistent not only with the regulatory text as currently drafted, but also RCRA generally and policy goals to reduce disposal and waste footprints.

Certain letters sent to EPA also included site-specific examples of CCR facilities with roadways or railbeds that would be impacted by the CCRMU regulations.²⁵ One letter described a utility with multiple sites with over 10 miles of roads that are entirely constructed of ash or blended with ash. Requiring the removal of such ash would significantly disrupt facility operations. Another company reported that regulation of roads creates a CCRMU that is 30 miles long. According to the utility, groundwater monitoring and replacement of existing embankments with other natural resources would be expensive, complicated, time-consuming, and

resource-intensive, and would also risk contamination. Another utility stated that it potentially has an unknown volume of CCR material along a railroad, but only a portion of the railroad is within the facility boundary. Due to fencing, which emphasizes the plant’s boundary line and obscures access to the rest of the railroad, it would be difficult not only to assess the presence of CCR in the area but also access the area the plant does not own.

EPA also received a request to clarify that the roadway or roadbed and associated embankments exemption applies regardless of whether there was oversight by a State agency and to extend the exclusion to all embankments.

Based on this information, EPA is soliciting comment on whether to expand the existing roadbed exemption in the definition of “CCR management unit” at § 257.53 to include roadbed, railbed, and all roadbed embankments. Under this alternative, the use of CCR in roadbed, railbed, and all roadbed embankments would be exempt from the CCRMU regulations, unless they are causing or contributing to a statistically significant level above the groundwater protection standard. As discussed above, the inclusion of railbed fall in the plain language meaning of the term “roadbed” as well. This exemption would apply regardless of if there was oversight by a State agency of the construction of the roadbed, railbed, and associated embankments. EPA specifically requests comment on codifying a definition of “roadbed” to mean “the foundation of a road prepared for surfacing or surface on which or ties, rails, and ballast of a railroad rest”. EPA also requests comment on codifying a definition of “roadbed embankment” to mean “material that is placed and compacted for the purpose of raising the grade of a roadbed above the level of the existing surrounding ground surface.”²⁶

v. Deferral of Certain CCR Management Unit Closures To Permitting

EPA is requesting comment on whether to make changes to § 257.101(g) to expand the deferral criteria for CCRMU that completed closure of the unit under state or federal regulatory authority prior to November 8, 2024. This expansion will provide greater deference to the decisions of state and other regulatory authorities regarding

²⁵ CCIG 2025. White paper reflecting Recommendations Updating the Federal CCR Regulations. Cross-Cutting Issues Group. June.

²⁶ This definition is based off information regarding embankments from the U.S. Department of Transportation Federal Highway Administration’s User Guidelines for Waste and Byproduct Materials in Pavement Construction. (Publication Number: FHWA-RD-97-148)

CCRMU closures completed before the effective date of the Legacy Final Rule.

As explained in Unit IV.A.2.b. of this preamble, in the Legacy Final Rule, EPA finalized provisions allowing owners and operators of legacy surface impoundments and CCRMU to defer compliance with the closure performance standard until the CCR permit authority could make a site-specific decision, provided the owner or operator could document that the unit closure met certain conditions. This provision allowed for the permit authority to evaluate site-specific information and determine whether a closure performed before the effective date of the Legacy Final Rule met the appropriate part 257 closure standards. See § 257.101(g). Specifically, the Legacy Final Rule provided that an owner or operator of a legacy CCR surface impoundment or CCRMU need not demonstrate compliance with the closure performance standards in § 257.102(c) or (d) provided they demonstrate that the closure of the CCR unit met specific standards codified in § 257.101(g). These standards are:

(1) The owner or operator of the CCR unit must document that a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement. This includes a State or Federal permit, an administrative order, or consent order issued after 2015 under CERCLA or by an EPA-approved RCRA State program.

(2) The owner or operator of the CCR unit must document that the regulatory authority required or conducted a site-specific risk assessment prior to (or as part of) approving the closure and any necessary corrective action.

(3) The owner or operator of the CCR unit must document that it installed a groundwater monitoring system and performed groundwater monitoring that meets all of the following:

- (i) Was capable of accurately representing background water quality;
- (ii) Was capable of accurately representing the quality of water passing the waste boundary;
- (iii) Was capable of detecting contamination in the uppermost aquifer; and
- (iv) Monitored all potential contaminant pathways.

(4) Must document that the closed unit meets either:

- (i) The performance standard in § 257.60; or
- (ii) The performance standard in § 257.102(d)(2)(i).

(5) The owner or operator must also include a certification statement as to the veracity of the information.

These standards are intended to ensure protectiveness at least until the time a permit authority could evaluate the closure on a site-specific basis to determine if the closure is as protective as those conducted in accordance with § 257.102. The existing provisions require the owner or operator to submit a permit application to the permit authority with sufficient information, including groundwater data, to demonstrate the applicable closure standards had been met. Under the current regulations, the permit authority will then review the information to determine whether the “equivalency” of the closure has been successfully demonstrated. If EPA or a Participating State Director determines that the closure has met the appropriate part 257 closure standard, the permit authority will issue a permit to require compliance with applicable post-closure requirements. If the permit authority determines that the closure does not meet the applicable part 257 standards, the owner or operator will be required to submit a complete permit application and obtain a permit that contains the specific requirements necessary for the unit to achieve compliance with the closure requirements at § 257.102.

As discussed in Unit IV.A.2.b. of this preamble, during the Legacy Rulemaking, EPA received public comment arguing that state programs had become significantly more robust over the past couple of decades, specifically, since 2015 when EPA last conducted a review of state programs. Since publication, several owners and operators of CCR units have provided EPA with additional information they believe demonstrates the adequacy of CCR unit closures performed under the oversight of other regulatory authorities (e.g., state programs). See Unit IV.A.2.b. for more information and examples of information provided by industry.

If the CCRMU provisions are not rescinded, EPA intends to maintain the general procedures in the existing regulations, whereby owners and operators of CCRMU may defer compliance with the CCR unit closure standards until a site-specific decision is made by the permit authority on the equivalence of the previously conducted closures. However, based on the information and rationale summarized in Unit IV.A.2.b. of this preamble, EPA is soliciting comment on extending the expanded legacy CCR surface impoundment deferral criteria, as described in Unit IV.A.2.b. of this preamble to CCRMU. Specifically, EPA

is proposing to remove: (1) The detailed technical requirements for a groundwater monitoring system, (2) The requirement that a facility document that the CCRMU currently meets either the location standard in § 257.60 or the dewatering standard in § 257.102(d)(1)(i), and (3) The requirement that the regulatory authority conducted a site-specific risk assessment. Under this approach, the owner or operator would need to document that a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015, a groundwater monitoring system was installed, and groundwater monitoring was performed. The owner or operator would need to also provide the same certification as to the veracity of the documentation currently required under § 257.101(g)(5).

EPA anticipates that this option would lead to an increase in the number of CCRMU eligible for deferral. As a result, fewer CCRMU will be required to undertake additional closure activities before the CCR permit authority determines that such actions are indeed necessary. It is worth noting that all CCRMU eligible for the deferral would still, at the time of permitting, be required to submit a permit application with sufficient information, including groundwater data, to demonstrate the applicable closure standards had been met. The CCR permit authority would then make a final determination as to whether the previously conducted closure achieved the performance standards established in the Federal CCR regulations.

The alternative would ensure that previous decisions made by state or federal regulators remain unaffected until the CCR permitting program can conduct site-specific evaluations. Additionally, since most of these CCRMU have been in place for decades, delaying potential compliance with the federal closure requirements for a comparatively short time until a permit authority evaluates the completed closure is unlikely to dramatically change the environmental conditions or risks at these facilities.

Therefore, EPA is soliciting comment on the option to allow owners or operators of CCRMU that have completed a closure prior to November 8, 2024, where a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015; a groundwater monitoring system has been installed;

and groundwater monitoring has been performed to document they meet the criteria in an owner-or-operator certified report. If EPA finalizes this option, the required documentation will have a deadline of no later than six months after the effective date of the final rule, if finalized, consistent with the compliance timeframe for the original deferral certification at § 257.101(g). EPA expects this will provide ample time for the owners and operators to prepare the necessary documentation.

If EPA were to finalize this approach, EPA would apply the same deferral criteria to CCRMU as is proposed in Unit IV.A.2.b. for legacy CCR surface impoundments. The process for the CCR permitting program to make the “equivalence” determination or establish additional requirements for the CCRMU would remain unchanged.

Additionally, for the reasons described in Unit IV.A.2.b., EPA requests comment on the adequacy of the record for the alternative option upon which EPA is soliciting comment and, to the extent any gaps are identified, requests suggestions for sources of additional information. EPA specifically requests detailed information regarding state CCR programs as well as other relevant regulatory programs at the points in time that may have overseen CCRMU closures. For example, EPA encourages commenters to submit specific case studies or examples where state or other regulatory authority decisions have been effective or ineffective in ensuring protective closures. Additionally, EPA seeks empirical data or studies that compare the effectiveness of state and federal CCR closure requirements or information describing specific elements of state regulatory frameworks that may differ from federal requirements and how these differences impact closure outcomes. EPA will consider such information submitted as it develops the final action.

vi. Removing “Other Active Facilities” From the Regulated Universe

EPA is soliciting comment on limiting the applicability of the CCRMU requirements to facilities that meet the definition of an “active facility” and those with a legacy CCR surface impoundment.

In the preamble to the Legacy Final Rule, EPA explained its decision to extend regulation to certain other facilities currently generating power for the electrical grid that only have CCRMU onsite. (89 FR 39053). EPA explained that it was concerned that CCRMU (e.g., inactive CCR landfills, closed CCR landfills, or closed CCR

surface impoundments) are located at these facilities. The preamble described these facilities as “other active facilities” and defined them as those that: (1) On or after October 19, 2015, were producing electricity for the grid; (2) Had ceased placement of CCR in their onsite CCR units before the effective date of the 2015 CCR Rule (October 19, 2015); and (3) Had no inactive CCR surface impoundments. After promulgation of the Legacy Final Rule, EPA received several questions regarding the scope of the active facilities covered under § 257.50(d). On January 16, 2025, in response to these questions, EPA issued a direct final rule and companion proposed rule to define and clarify the scope of the intended “other active facility” universe (90 FR 4635 and 90 FR 4707). In the direct final rule, EPA acknowledged that as currently written the regulation could result in the inclusion of electric utilities or independent power producers that have not placed CCR onsite or operated an onsite coal-fired electric generating unit (EGU). Both the Legacy Final Rule preamble and the January 2025 direct final rule clearly stated this was never EPA’s intent. Rather EPA intended the CCRMU regulations to only apply to facilities with a regulated CCR unit and to the small subset of active facilities described in the Legacy Final Rule preamble. Indeed, EPA specifically declined requests to extend coverage more broadly. See 89 FR 39053–39054. In response to adverse comment, EPA withdrew the direct final rule on March 14, 2025.

Several commenters on the direct final rule and companion proposal expressed greater confusion over EPA’s attempt to clarify the provision. A few commenters expressed the opinion that the clarification went beyond the intended scope of the Legacy Final Rule and was overly broad. While others made comments to suggest the scope of “other active facility” was no different than the scope of “active facility”. In light of the discussion in Unit III.D., the persistent confusion regarding the scope of the intended “other active facility” universe, and EPA’s inability to clearly articulate the intended scope, EPA is soliciting comment on limiting applicability of the CCRMU requirements to facilities that meet the definition of “active facility or active electric utilities or independent power producers” and those inactive facilities with a legacy CCR surface impoundment (i.e., those facilities with a regulated CCR unit onsite).

vii. New Threshold for CCRMU

In the Legacy Final Rule, EPA deferred decisions about the management of CCRMU between one and 1,000 tons to permitting and exempted placement less than one ton from further consideration. This framework was an outgrowth of the 2024 Risk Assessment, which identified potential for groundwater impacts at relatively small tonnages, but was unable to reliably identify a discrete point at which risks would consistently fall below levels of concern. This uncertainty was further compounded by the potential for discrete fills to be located in close proximity to other fills and disposal units, resulting in a larger effective mass. The promulgated national thresholds were intended to address these uncertainties while ensuring no reasonable probability of adverse effects to health and the environment.

As discussed in Unit IV.A.3., several members of industry critiqued the existing CCRMU deferral threshold and requested that EPA increase the threshold from 1,000 tons to an alternative quantity associated with acceptable beneficial use or to risk-based criteria for stability, groundwater, and dust. For example, CIG said the one-ton threshold for identification of CCRMU in the FER should be increased as one ton of CCR amounts to what could fit in the back of a small pickup truck or a single front-end loader bucket. The organization stated there is no evidence that CCR in such a low amount poses a risk and imposing the regulatory burdens for such small amounts is thus not justified. Furthermore, as discussed previously in Unit III.D., EPA acknowledges that the high-end risks evaluated in the 2024 Risk Assessment may not manifest at every site and concurs that risks associated with individual CCRMU fills may be lower. There is potential for even greater variability among fills compared to disposal units (e.g., thickness, area). The Agency has previously recognized that there are limits to the utility of a single mass-based thresholds.²⁷ A national limit based on any single variable has the potential to become overly restrictive, as that limit must simultaneously account for the effects of any other variables that could influence risk (e.g., leachate concentration). Conversely, attempting to simultaneously control for multiple variables can quickly yield limits that are unwieldy to define and implement. As a result, to date, EPA has been

²⁷ 89 FR 38950, May 8, 2024.

unable to identify a less onerous threshold that is also reliably protective.

EPA is soliciting comment on alternate thresholds for exemption of CCRMU fills from regulation that would be applicable nationwide. EPA is specifically requesting comment on specific limits that could be established, numerical or otherwise, as well as the basis for why there would be no reasonable probability these placements would have an adverse effect on human health or the environment if no further action is taken to monitor or maintain these fills.

4. Initial Timeframes for Background Sampling for New CCR Landfills, CCR Surface Impoundments, and any Lateral Expansions

EPA is proposing to amend the existing regulations to clarify that the deadline by which new CCR landfills and CCR surface impoundments (which includes any lateral expansions) must comply with 40 CFR 257.90 through 257.94 is the deadline in § 257.90(b)(2) (“prior to initial receipt of CCR”) rather than the deadline in § 257.94(b). This proposed revision is consistent with EPA’s original intent, as described in the final rule preamble. 80 FR 21408. This six-month deadline is also in tension with the requirement to obtain eight statistically independent samples, as six months can be too short a time to complete this task.

The current regulations contain an error. The first sentence of § 257.90(b)(2) provides that “Prior to initial receipt of CCR by the CCR unit, the owner or operator must be in compliance with the groundwater monitoring requirements specified in paragraph (b)(1)(i) and (ii) of this section.” The second sentence requires the owner or operator of the CCR unit to initiate the detection monitoring program “to include obtaining a minimum of eight independent samples for each background well as required by § 257.94(b).” Unfortunately, § 257.94(b) specifies that “a minimum of eight independent samples for each background well must be collected and analyzed for the constituents listed in appendices III and IV to this part *during the first six months of sampling*.” (emphasis added). The requirement that background sampling and analysis be conducted during the first six months was an error; as evidenced by the explanation in the 2015 final rule preamble, EPA did not intend to require anything more specific than that these tasks be completed prior to the initial receipt of CCR.

In the preamble to the 2015 CCR Rule, EPA provided an overview of all the

new groundwater monitoring deadlines established in the rule. EPA specifically explained that “new CCR units must comply with §§ 257.90 through 257.93, including the requirement under § 257.94(b) to collect and analyze eight independent samples from each well for the parameters listed in appendix III and IV to this part to determine background levels for all appendix III and IV constituents, *before commencing operation*.” 80 FR 21408 (emphasis added). Notably, EPA never mentioned a requirement that the background sampling and analysis be conducted “during the first six months of sampling,” or explained the reason that these activities specifically need to be completed within the first six months, rather than before the facility begins using the new unit.

Moreover, the six-month deadline may not provide enough time to collect eight statistically independent samples. As discussed in the Legacy Final Rule regarding the compliance deadline for legacy CCR surface impoundments to comply with the groundwater monitoring requirements, EPA acknowledged that collecting eight statistically independent samples can be impacted by third-party availability and laboratory backlogs. Furthermore, EPA acknowledged the adverse impact of too frequent sampling on the validity of statistical analysis, the need to account for seasonal variability in groundwater flow, groundwater levels, and constituent concentrations and that providing insufficient time for the collection of baseline samples would likely result in ineffective groundwater monitoring programs that may fail to alert facilities to groundwater contamination coming from CCR units. 89 FR 39019.

Accordingly, EPA is proposing to revise § 257.90(b) to state that, “In addition, prior to initial receipt of CCR, the owner or operator of the CCR unit must collect and analyze eight independent samples from each well for the parameters listed in appendix III and IV to this part to determine background levels for all appendix III and IV constituents, and initiate the detection monitoring program in § 257.94.” EPA is further proposing to revise § 257.94(b) to reference § 257.90(b)(2).

5. Slope Stability Requirements for Vegetation

In 2015, EPA promulgated requirements for all CCR surface impoundments (except incised units) to install and maintain adequate slope protection. Specifically, the final rule required facilities to document that “the

CCR unit has been designed, constructed, operated, and maintained with . . . adequate slope protection to protect against surface erosion, wave action, and adverse effects of sudden drawdown.” 40 CFR 257.73(d)(1)(ii); 257.74(d)(1)(ii). In developing the 2015 CCR Rule, EPA relied on existing dam safety technical literature, which universally recommends that vegetative cover not be permitted to root too deeply beneath the surface of the slope. Deep roots can potentially introduce internal embankment issues such as pathways for water intrusion and piping, precipitating erosion internally, or uprooting which is the disruption of the embankment due to the sudden uplifting of the root system. Based on these data, the final rule also required a vegetative cover height limitation to prevent the establishment of rooted vegetation, such as a tree, a bush, or a shrubbery, on the CCR surface impoundment slope (80 FR 21476, April 17, 2015), and to prevent the obscuring of the slope during routine and emergency inspection. Based on the available information, EPA concluded that a vegetative cover height limitation of six inches above the face of the embankment would prevent woody vegetation, while allowing inspectors adequate observation of the slope.

After the 2015 final rule was published, the six-inch vegetative height limitation was challenged on the ground that EPA had failed to provide adequate notice of this requirement in the proposal. See, *USWAG et al. v. EPA*, No. 15–1219 (D.C. Cir. 2015). In response, EPA agreed to reconsider this provision. This claim was settled, and the court vacated the requirement that vegetation on all slopes “not . . . exceed a height of 6 inches above the slope of the dike” within §§ 257.73(a)(4), 257.73(d)(1)(iv), 257.74(a)(4), and 257.74(d)(1)(iv).

In 2018, EPA proposed to expand on the existing general performance standard with more specific slope protection requirements for existing and new surface impoundments. EPA also proposed to establish distinct definitions and height limitations for grassy vegetation and woody vegetation to replace the vacated requirement. See 83 FR 11589–11592. EPA never finalized this requirement and the proposal remains pending. EPA is now soliciting comment on whether these proposed performance standards would still be necessary and useful or whether EPA should instead rely on a permit authority to establish the necessary terms and conditions to ensure slope protection.

B. New Compliance Pathway Allowing Site-Specific Considerations During Permitting

The majority of state and industry commenters on the proposal that resulted in the 2015 CCR rule preferred regulations that would allow site-specific approaches to establishing standards. (See 80 FR 21331–21234) Commenters argued that the prescriptive one-size-fits-all approach was overly stringent and inflexible and had the potential to greatly disrupt implementation of a state's regulatory programs, which have been tailored to provide for site specific conditions and situations. Moreover, commenters argued that because of the many state regulatory programs addressing CCR disposal, there would be many instances where state requirements could be in conflict with, in addition to, or separate from the federal requirements and it was unclear how these differences would be resolved.

Many commenters simply argued that a permitting program was the only viable approach for the regulation of CCR. Commenters argued that states should be allowed to enforce compliance through a traditional permitting system, and that solid waste operating permits are critical to ensuring coal ash disposal facilities design, construct, operate and close their waste facilities safely. Commenters argued that permits are important because they can dictate the use of specific operating practices and control technologies that may be essential for minimizing releases. Permits also provide an important enforcement vehicle, as well as a process by which the public can be informed and participate in the siting, operation and closure of the waste disposal unit.

In the 2015 CCR final rule, EPA expressed appreciation for commenters' attempts to craft alternative approaches to address the limitations in the proposed self-implementing subtitle D option and recognized that this regulatory structure gives rise to legitimate concerns about the potential for duplicative or conflicting state and federal regulatory systems. However, as EPA noted at the time, the Agency did not have the authority to pursue such alternative approaches.

However, the subsequent passage of the WIIN Act changed the landscape of EPA's authority. As explained in Units III.A. and III.D. of this preamble, the 2016 WIIN Act provided EPA new tools to pursue its regulatory goals. Namely, the WIIN Act empowered EPA to authorize states to implement the federal CCR rule through an EPA-

approved permit program, and to act as the CCR permit authority, once a permit program is established, in Indian Country and in nonparticipating states. With regulatory oversight by a permit authority and the interpretation of section 4004(a) as requiring a baseline standard of protection without mandating uniformity in the manner of attainment, EPA is justified in moving away from the "one-size-fits-all" regulatory approach previously necessitated by the self-implementing rule structure and creating another pathway to compliance that incorporates regulatory provisions that allow permit authorities the ability to approve a different combination of technical standards for the owner or operator to comply with while still attaining the RCRA standard of "no reasonable probability of adverse impacts". These permit authority-approved flexibilities are necessary to accommodate site-specific conditions and are in line with EPA's interpretations of section 4004(a) to allow for non-uniformity in attainment of the statutory directive to prevent "reasonable probabilities of adverse effects to health and the environment" from the disposal of CCR.

When using the term permit flexibilities, EPA intends to convey the concept that the permit authority, whether a participating State or EPA, will be able to adjust or adapt certain technical requirements based on site-specific facts and risks. Such adjustments will still need to remain within the boundaries set by the regulatory standard and must support a determination by the permit authority that compliance with the permit terms will "not result in a reasonable probability of adverse impacts to human health or the environment."

While EPA is proposing and soliciting comment on several regulatory flexibilities for permit authorities to elect to apply to eligible owners or operators of CCR units, owners or operators of CCR units must still comply with all requirements in the existing regulations for which the permit authority does not approve flexibility for, in accordance with the proposed provisions below, this includes all recordkeeping, notification, and internet posting requirements in §§ 257.105 through 257.107. The new compliance pathway set forth in this proposed rule will take effect only once a final CCR permit that establishes the final technical requirements for the CCR unit is in effect. Until such time, the Agency will assess compliance with the existing applicable regulatory requirements and seek such compliance through

appropriate enforcement action where necessary.

To be clear, the site-specific considerations in the new compliance pathway will apply to any facility only after a permit application is properly submitted, the permit authority determines the appropriate permit provisions, and a final CCR permit incorporating those provisions is in effect. For States with an EPA-approved CCR permit program and who wish to adopt the new compliance pathway (*i.e.*, permit flexibilities), the State will have to submit an updated application that includes the provisions in this rule and the Agency will have to grant updated approval of that State program. The State will then have to initiate the permitting process and then properly consider the applicability and appropriateness of any flexibility in this rule. For States without an approved program but are planning to submit a program application, that application must be approved, and the State then will consider the flexibilities through a permit process. For States that do not seek program approval, EPA will have to finalize the regulations establishing the Federal permit program and then consider the flexibilities in the context of facility specific permit decisions.

1. Groundwater Monitoring and Corrective Action Requirements

EPA is proposing to codify permit flexibilities for units under a federal or participating-state CCR permit. These revisions would allow the permit authority to establish: (1) An alternative point of compliance for the groundwater monitoring wells required to comply with the federal CCR groundwater monitoring and corrective action requirements in 40 CFR part 257, and (2) Alternative groundwater protection standards for constituents for which a federal MCL has not been established under the regulations referenced at § 257.95(h)(1) (*i.e.*, §§ 141.62 and 141.66).

a. Point of Compliance for Groundwater Monitoring and Corrective Action

EPA is proposing several revisions to allow the Participating State Director or EPA, when serving as the permit authority, to establish alternative points of compliance of no more than 150 meters from the waste boundary for locating groundwater monitoring wells and demonstrating compliance with the groundwater monitoring and corrective action standards in 40 CFR part 257. Additionally, EPA is soliciting comments on an alternative that would, under specific circumstances, allow the permit authority to establish points of

compliance for groundwater monitoring and corrective action no further from the unit than the facility boundary, while exploring ways in which this approach could be implemented in a manner that ensures early detection (e.g., by installing additional wells) and minimizes groundwater contamination.

The existing groundwater monitoring and corrective action regulations require the installation of a system of monitoring wells and specify procedures for sampling these wells, along with methods for analyzing the collected groundwater data to detect the presence of hazardous constituents (e.g., toxic metals) and other monitoring parameters (e.g., pH, total dissolved solids) released from the units. These regulations establish a comprehensive groundwater monitoring program comprised of detection monitoring, assessment monitoring, and corrective action. Once a groundwater monitoring system and groundwater monitoring program have been established for a CCR unit, the owner or operator must conduct groundwater monitoring and, if the monitoring reveals an exceedance of a groundwater protection standard at a statistically significant level for any of the constituents listed in appendix IV, must initiate corrective action.

Specifically, the groundwater monitoring systems regulations in § 257.91 establish a general performance standard requiring that all CCR units have a groundwater monitoring system consisting of a sufficient number of wells, installed at appropriate locations and depths, to collect groundwater samples from the uppermost aquifer. This system must accurately represent both the quality of background groundwater and the quality of groundwater passing the waste boundary of the CCR unit. Its primary objective is to detect a release early, enabling timely corrective action before sensitive receptors are significantly affected. To achieve this, the regulations require that downgradient wells be placed at the waste boundary, which is defined as the vertical surface located at the hydraulically downgradient limit (i.e., the edge) of the CCR unit, extending down into the uppermost aquifer. These downgradient wells are used to monitor for any contaminants leaking or seeping into the groundwater.

Additionally, under the existing regulations in § 257.91, each CCR unit must have its own groundwater monitoring system, unless the owner or operator chooses to install a multiunit groundwater monitoring system. The existing rule specifies that if a multiunit system is installed, it must be equally capable of detecting background and

groundwater contamination at the waste boundary as an individual monitoring system, based on the consideration of several factors, including the number, spacing, and orientation of the CCR units, the hydrogeologic setting, the site history and the engineering design of the CCR units.

There are two main reasons why EPA is proposing increased flexibility in establishing the location of the groundwater monitoring systems and ensuring compliance with the groundwater and corrective action standards in 40 CFR part 257.

First, as discussed in Units III.D. and IV.B. of this preamble, the WIIN Act provided EPA with new tools, including critical oversight mechanisms while preserving the interpretation of section 4004(a) as requiring a baseline standard of protection without mandating uniformity in how it is achieved. Furthermore, as explained in Unit III.D. of this preamble, EPA maintains broad discretion to adopt performance-based criteria based on a record of protectiveness across various state instances. In developing the 2015 CCR Rule, EPA promulgated performance standards that provided only a limited degree of flexibility in line with a self-implementing regulatory structure to ensure that requested modifications are protective and technically appropriate.²⁸ EPA largely based the proposed groundwater monitoring requirements on those for MSWLFs in the 40 CFR part 258 criteria, albeit with certain modifications to tailor the requirements to the self-implementing CCR regulatory structure. In particular, EPA did not include some of the alternatives available in part 258, which establish alternative standards allowing a state, as part of its permit program, to tailor the default requirements to account for site-specific conditions at the individual facility.²⁹ Thus, EPA adapted the proposed requirements for CCR units by incorporating certain provisions from the 40 CFR part 265 interim status regulations, which operate in the absence of a permit, and by including, in several of the proposed requirements, a certification by an independent registered professional

engineer that the rule's requirements had been met.³⁰

With the new tools provided by the enactment of the WIIN Act, EPA now has the authority to issue permits, enforce the regulations, and approve state CCR permit programs; consequently, there are now regulatory-based oversight mechanisms to allow for alternative compliance pathways, such as an approved alternative boundary, while ensuring the actions pose no reasonable probability of adverse effects to health and the environment. Prior to the WIIN Act, the only enforcement mechanism was through filing a citizen suit under RCRA 7002 which would have been initially based on the information available on the facility's website.

Second, the Agency has received feedback from industry indicating that precisely defining the unit boundary of some units, particularly older legacy surface impoundments, can be challenging. In some instances, waste boundaries were established decades ago based on natural features that may now be obscured or have changed over time. According to industry, depending on the circumstances, location and physical characteristics of a unit, it may be beneficial to move the point of compliance downgradient to a distance where uncertainties along the waste boundary are minimized, including ensuring that monitoring wells are not inadvertently placed into the waste.

Furthermore, EPA is aware that, for certain facilities, the waste boundary may not always serve as the most effective point of compliance for groundwater monitoring. Accessibility issues may arise due to physical obstacles such as gas and power lines or site design constraints such as run-off controls and liner anchors. Additionally, perched water tables or other hydrogeologic phenomena may cause leachate from a CCR unit to travel laterally for a significant distance before reaching the uppermost aquifer. In such cases, a monitoring system installed solely at the waste boundary could potentially miss all or significant portions of a contaminant plume.

In considering the development of this proposal, EPA reviewed many state CCR and municipal solid waste regulatory programs, such as Florida, Illinois, North Dakota, Tennessee, North Carolina, and Wyoming, and identified several that have allowed monitoring points of compliance beyond the waste boundary. This element of a groundwater monitoring system is not surprising as a monitoring well placed

²⁸ The 2015 CCR Rule was designed to be self-implementing, meaning that the requirements allowed facilities to comply with the regulations without the need to interact with a regulatory authority.

²⁹ In both the proposal and the final 2015 CCR Rule, EPA indicated that in the absence of a mandated state oversight mechanism to ensure that suggested modifications are technically appropriate, these kinds of provisions could operate at the expense of safety and environmental protection. 80 FR 21398, April 17, 2015.

³⁰ 80 FR 21396, April 17, 2015.

near rather than at the boundary of a waste unit can detect a release from a broader area. When developing the self-implementing CCR rules, EPA determined that using the waste boundary location and qualified engineer certification represented a standard that was implementable without regulatory oversight or involvement. Now with the authority to both issue permits and enforce the technical standards and the ability of EPA to allow for non-uniformity in attaining the RCRA protectiveness standard, EPA is proposing a second approach to allow for the permit authority to adjust the technical standards (such as the alternative point of compliance for groundwater monitoring and corrective action).

Recognizing these site-specific situations and considering the additional authorities provided by the WIIN Act of 2016, EPA is proposing a regulatory amendment that would allow the Participating State Director or EPA, when serving as the permit authority, to establish alternative points of compliance that are no more than 150 meters from the waste boundary and located on the facility, only if the Director finds, based on specific criteria and a demonstration by the owner or operator, that the alternative point of compliance, together with location characteristics, will (1) Not materially delay detection of either a statistically significant increase over background levels for a constituent in appendix III or statistically significant levels above the groundwater protection standard of any of the constituents listed in appendix IV from that CCR unit and (2) Minimize the migration of any of those constituents from that CCR unit to the uppermost aquifer during the active life of the CCR unit and the post-closure care period based on specific criteria. Authorizing a permit authority to establish an alternate point of compliance within 150-meters of a CCR unit aligns with current regulations governing very small quantity generators (40 CFR part 257, subpart B, Disposal Standards for the Receipt of Very Small Quantity Generator Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) and MSWLFs (40 CFR part 258, Criteria for Municipal Solid Waste Landfills). Additionally, while requiring a monitoring well at the waste boundary works well within a self-implementing program with no permit authority oversight, it results in a very limited zone of detection for each well. A single monitoring well placed at the very edge of the CCR unit is only capable of detecting a release from a

small portion of the CCR unit and any release would need to be in close proximity to the well. Alternately, a well placed further away from the edge of the CCR unit can be capable of detecting releases from a larger portion of the CCR unit when the release migrates as it expands horizontally (*i.e.* spreads out). At the other end of the spectrum, placing a well a significant distance (*e.g.*, one mile) downgradient will be unlikely to detect many releases as the plume spreads out and its impacts are diluted over space. Consequently, having a limit is essential for avoiding the effects of delayed detection such as preventing large expanses of contamination, costly cleanups, and potential new Superfund sites. Delayed detection of a release or leak could increase the likelihood of contamination spreading over a larger area. When there is a significant distance between the source of contamination (*e.g.*, the CCR unit) and the point of detection (*e.g.*, monitoring wells), more land may become contaminated before the issue is identified. In extreme cases, large-scale contamination could result in the site being designated as a Superfund site.

By setting a maximum distance limit, EPA aims to enhance regulatory flexibility for CCR unit owners and operators, based on established criteria while still having a system that will timely identify a release. These criteria are designed to help the permit authority determine appropriate groundwater monitoring points of compliance (*i.e.*, groundwater monitoring well locations) to accommodate site-specific conditions while maintaining protection against adverse effects to health and the environment. The criteria are as follows:

- Consideration of the facility's hydrogeological features and surrounding land, including aquifer attenuation and dilution characteristics;
- Adherence to location restrictions as specified in §§ 257.61 through 257.64;
- Compliance with corrective action procedures outlined in §§ 257.96 through 257.98;
- Assessment of the volume and physical and chemical characteristics of the leachate;
- Evaluation of the quantity, quality, and direction of groundwater flow underlying the facility;
- Consideration of the proximity and withdrawal rates of groundwater users;
- Availability of alternative drinking water sources;
- Analysis of existing groundwater quality, including other sources of

contamination and their cumulative impacts; and

- Evaluation of public health, safety, and welfare effects.

In developing this proposal, EPA reviewed various EPA regulations that authorize a permit authority to establish an alternative point of compliance. Historically, EPA has recognized that fixed compliance boundaries may not be universally applicable due to the diverse geological and operational characteristics of waste management facilities. For example, under the framework of 40 CFR part 257, subpart A (Criteria for Classification of Solid Waste Disposal Facilities and Practices), States with approved Solid Waste Management plans may establish an alternative boundary if, after thorough examination of the site-specific situation, a finding is made that an adjustment of the boundary would not result in contamination of groundwater needed or used for human consumption.

In the preamble to the 1979 final rule establishing this regulation, EPA evaluated various options for the point of compliance (*i.e.*, at what point in the aquifer does contamination from the facility or practice constitute non-compliance), including use of other distance specifications in lieu of the property boundary in order to try to respond to reviewers' concerns about the potential for contamination of large expanses of groundwater.³¹ The proposal requested comments on alternative distances and the rationale for specification of such distances. Various distances were suggested in the public comments to the proposed rule; however, no basis was presented for selection of one distance over another at that time. While there was a rationale for limiting migration of contamination to within the designated waste disposal areas to protect neighbors who may use the untreated groundwater as drinking water supply, there was no rationale for limiting migration to any particular distance. In evaluating this issue EPA recognized that the point of compliance must be established at a point at which it is feasible to monitor. Ideally, the best way to protect present and future users of an aquifer is to ensure that drinking water standards are not violated anywhere in the aquifer, including the area immediately under the waste material. However, in the 1979 preamble EPA indicated that any attempt to monitor directly under the waste would present two major difficulties. First, an environmental risk may be posed by the installation of monitoring wells through the waste

³¹ 44 FR 53447, September 13, 1979.

material or in areas where waste will be deposited. EPA was concerned that such wells may become conduits for direct flow of waste constituents (e.g., leachate) into the aquifer. EPA also stated that, while it may be theoretically possible to construct a well that doesn't allow such infiltration, the technology for this had not been sufficiently demonstrated that EPA would want to encourage this practice on a national scale. Secondly, the immediate proximity of waste to the well, in conjunction with the "conduit" phenomenon, would undermine the utility of the monitoring well. Samples extracted would not be likely to be representative of the aquifer; rather, they would be likely to contain concentrated leachate, overestimating the contamination of the aquifer.

EPA also examined the possibility of other fixed distances from the center of the waste area.³² This approach was rejected because it was impossible to establish a uniform distance that would be meaningful for the vast number of situations to which this standard applied. In some instances, a fixed distance would mean that monitoring wells would still be placed through waste material. A longer distance might, in some cases, put the point of compliance beyond the area of likely placement of drinking water wells.

After examining all these approaches, EPA concluded that the solid waste boundary was the appropriate point for application of the standard. With that as the point of compliance, groundwater contamination would be detected as soon as possible without presenting the risks inherent in monitoring under the waste. Likewise, it avoided the problem of guessing the distance at which a potentially affected party is likely to put a drinking water well.

However, in the 1979 final rule, EPA recognized the need for some flexibility to allow States with approved solid waste management plans to establish an alternative boundary if, after a thorough examination of the site-specific situation, it is determined that adjusting the boundary would not result in contamination of groundwater needed or used for human consumption. Accordingly, the existing Solid Waste Disposal regulations in § 257.3–4(b)(2) permit an approved State to set an alternative boundary for a facility, replacing the solid waste boundary, only if it is found that this change will not result in the contamination of groundwater intended for human consumption. This determination must be based on an analysis and

consideration of factors outlined in § 257.3–4(b), including: (1) The hydrogeological characteristics of the facility and surrounding land; (2) The volume and physical and chemical characteristics of the leachate; (3) The quantity, quality, and direction of flow of groundwater underlying the facility; (4) The proximity and withdrawal rates of ground-water users; and (5) Public health, safety, and welfare effects.

The Agency also considered moving the point of compliance in 1991 when revisions were made to the Criteria for Classification of Solid Waste Disposal Facilities and Practices set forth in 40 CFR part 257, in response to the 1984 Hazardous and Solid Waste Amendments to RCRA. This action also introduced a new part 258, which established revised minimum federal criteria for MSWLFs, including requirements for groundwater monitoring.

In the 1991 final rule, EPA set a maximum distance from the MSWLF for establishing the alternative boundary or relevant point of compliance. During the public comment period of this rule, the Agency received a number of comments regarding the alternative boundary designation, which would allow groundwater monitoring wells to be placed at distances up to 150 meters from the waste management unit boundary.³³ Several commenters argued that the 150-meter boundary was overly conservative and inflexible. Several commenters suggested other alternative boundary locations including: the property boundary and unlimited locations, based on the risks posed by the facility. These arguments were countered, however, by other commenters who expressed concern that the allowable distance was excessive, would simply allow dilution of contamination, and would delay detection of contamination.

In the final rule, the Agency ultimately disagreed with commenters who argued that the proposed approach was unnecessarily stringent. In developing the proposed rule, EPA considered setting the alternative boundary at the property boundary or not stipulating any limit. These options obviously would provide the greatest flexibility in addressing the practicable capability of owners and operators of MSWLFs. However, due to the size of some MSWLF facilities, EPA was concerned that large expanses of groundwater could be contaminated before detection. Thus, the Agency believed it was essential to set a maximum distance limit for the

alternative boundary (referred to in the MSWLF rule as the "relevant point of compliance") that would limit groundwater contamination yet still provide some flexibility to owners and operators of MSWLFs. The Agency also specified in the final rule that the alternative boundary (or the relevant point of compliance) must be located on property owned by the owner or operator to prevent contamination off site. The Agency believed this approach provided sufficient flexibility, while at the same time, limiting the area of contamination.

The existing MSWLF regulations in part 258 also specify that, in determining the point of compliance, the Director of an approved state shall consider several factors, including: (1) The hydrogeologic characteristics of the facility and surrounding land; (2) The volume and physical and chemical characteristics of the leachate; (3) The quantity, quality, and direction, of flow of groundwater; (4) The proximity and withdrawal rate of the groundwater users; (5) The availability of alternative drinking water supplies; and (6) The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water. Under part 258, subpart E, multiunit monitoring systems must consist of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer that represent the quality of background groundwater and the quality of groundwater passing the relevant point of compliance. Section 258.51(a)(2) requires that the downgradient monitoring system be installed at the relevant point of compliance (not to exceed 150 meters from the unit on land owned by the owner or operator) designated by an approved State. In determining where to place monitoring wells in a multiunit facility in compliance with § 258.51(a)(2), the approved State draws an imaginary line around all units at the facility. This line would constitute the relevant point of compliance for a multiunit system. Therefore, wells must be placed at this imaginary line. Of course, the approved State must first make the determination that it is appropriate and protective to use a multiunit monitoring system based on the factors described above.

Therefore, considering the information above, the ability of EPA to allow for non-uniformity in attaining the RCRA protectiveness standard, and the new tools provided to EPA by the

³² 44 FR 53448, September 13, 1979.

³³ 56 FR 51068, October 9, 1991.

WIIN Act, EPA is proposing to allow the permit authority to establish alternative points of compliance for groundwater monitoring and corrective action of no more than 150 meters from the waste boundary, provided certain criteria are met. This approach is also similar to current regulations governing other solid waste disposal facilities.³⁴

In developing this proposal, EPA is contending with two main considerations: site-specific flexibility, which would be approved by the permit authority based on criteria, and the need for early detection. Therefore, establishing a maximum distance from the waste boundary is essential to avoid delaying detection. However, EPA is soliciting comments on what set distance (other than 150 meters) may be most appropriate for CCR units.

Additionally, the Agency solicits comment on an alternative that would allow the permit authority to establish the alternative point of compliance for groundwater monitoring and corrective action no further from the CCR unit than the facility boundary (rather than the 150-meter limit). Specifically, EPA is seeking comments on how the facility-boundary approach could be implemented. In the preamble to the 1979 final rule establishing the § 257.3–4 (Criteria for Classification of Solid Waste Disposal Facilities and Practices) regulations, EPA initially considered setting the point of compliance at the facility property boundary.³⁵ However, concerns were raised about future property owners potentially using contaminated groundwater as a drinking source, the possibility of large expanses of groundwater contamination if the facility property was extensive, and the potential for owners purchasing additional property to delay corrective action.

Therefore EPA, seeks comments on strategies to prevent potential widespread groundwater contamination and to ensure early detection and timely corrective action in cases where the alternative point of compliance is located further away from the waste boundary, specifically when the facility property is extensive or if units are sold off or parceled before contamination is detected. For example, some state programs also authorize a buffer zone or a “zone of discharge,” which allows the

facility to defer remediation of groundwater contamination for some period of time, usually until the contaminant plume has migrated to the facility site boundary. Florida, Illinois, North Dakota, and Tennessee are among those states with such a regulatory provision.

Further, EPA is soliciting comment on whether it would be beneficial to allow the permit authority to combine groundwater monitoring and corrective action systems for all types of CCR units into zones (*i.e.*, the equivalent of “area(s) of concern” or “solid waste management area”) for the purpose of groundwater monitoring and corrective action. This flexibility would be especially relevant in situations where the CCR surface impoundment or CCR landfill is situated among CCRMU, a release has occurred, and both the regulated CCR unit and the CCRMU are likely contributors to the release (*i.e.*, commingled releases). EPA specifically requests examples where the permit authority may prefer to combine CCRMU with other types of CCR units, such as CCR surface impoundments, CCR landfills, and legacy CCR surface impoundments, across the facility into a single groundwater monitoring and corrective action zone, essentially creating a facility-wide groundwater monitoring network.

Lastly, EPA solicits comments on whether lateral expansions, new, or replacement CCR units should be ineligible for an alternate point of compliance for groundwater monitoring and corrective action. The Agency believes that owners and operators of these CCR units should be able to account for the presence of structures or obstacles during the planning process and should be able to place monitoring wells at the closest practical distance from the relevant waste boundary. However, this may not be true for existing units that were constructed without considering the need for groundwater monitoring well installation. Therefore, the Agency is requesting comment on whether the flexibility to establish an alternative boundary should be limited to existing CCR units.

b. Groundwater Protection Standards for Corrective Action

EPA is proposing two new provisions at § 257.111. The first provision would allow the permit authority to establish alternative groundwater protection standards, based on specific criteria, for constituents for which a federal MCL has not been established under §§ 141.62 and 141.66 as referenced at § 257.95(h)(1). The second provision

would require the permit authority to consider additional factors when establishing alternative groundwater protection standards, including the presence and concentrations of other contaminants in the groundwater.

Under the existing regulations, if groundwater monitoring demonstrates an exceedance of the groundwater protection standards for constituents identified in appendix IV of part 257 above a statistically significant level, corrective action is required, as laid out in §§ 257.96 through 257.98. These requirements apply throughout the active life and any post-closure care period of the CCR unit.

As stated in the preamble to the 2010 CCR Proposed Rule, in EPA’s view, the objectives of a groundwater monitoring and corrective action regime, along with the analytical techniques for evaluating groundwater quality, are similar regardless of the specific wastes in a disposal unit or whether the unit is a landfill or surface impoundment. Therefore, EPA largely modeled the 2010 proposed groundwater monitoring and corrective action requirements for CCR landfills and surface impoundments after those for MSWLFs in the 40 CFR part 258 criteria.³⁶ At the same time, however, EPA was mindful of the differences in the statutory authorities for establishing criteria for CCR landfills and surface impoundments versus MSWLFs and very small quantity generator (VSQG) facilities, and in particular, the possibility that a state may lack a permit program for CCR disposal units. Accordingly, EPA sought to tailor the CCR requirements to account for the self-implementing framework. EPA chose to include requirements for a certification by a qualified professional engineer or, in some cases, hydrologist, in lieu of the state approval mechanisms that are used in the 40 CFR part 258/257, subpart B criteria.

In the 2010 CCR Proposed Rule, EPA included a provision in § 257.95 allowing the owner or operator to establish an alternative groundwater protection standard for constituents for which federal MCLs have not been established under the Safe Drinking Water Act, provided that the alternative groundwater protection standard had been certified by a qualified professional engineer and the state had been notified that the alternative groundwater protection standard was placed in the operating record and on the owner’s or operator’s publicly accessible internet site. This provision had been adopted from the part 258

³⁴ Solid waste disposal facilities (40 CFR part 257, subpart A, Classification of Solid Waste Disposal Facilities and Practices), VSQGs (40 CFR part 257, subpart B, Disposal Standards for the Receipt of Very Small Quantity Generator Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) and MSWLFs (40 CFR part 258, Criteria for Municipal Solid Waste Landfills).

³⁵ 44 FR 53445, September 13, 1979.

³⁶ 75 FR 35204, June 21, 2010.

regulations. However, it was not finalized in the 2015 CCR Rule because the Agency determined that it was inappropriate for a self-implementing rule, as it was unlikely that a facility would have the scientific expertise necessary to conduct a risk assessment, and it was too susceptible to potential abuse.³⁷ Additionally, numerous comments were received suggesting that only those constituents with federal MCLs be included in appendix IV because only federal MCLs would be enforceable under a self-implementing rule.

However, as discussed in Units III.A., III.D., and IV.B., now that EPA has the authority to issue permits, enforce the regulations, and review and approve state CCR permit programs, which can serve as oversight mechanisms to evaluate site-specific conditions. Furthermore, EPA maintains broad discretion to adopt performance-based criteria based on a record of protectiveness in various state instances under the interpretation of section 4004(a) as requiring a baseline standard of protection without mandating uniformity in the manner of attaining that baseline standard. Therefore, the Agency is proposing to adopt two provisions. These provisions would allow a permit authority (either the Participating State Director or EPA), to establish alternative groundwater protection standards, based on specific criteria, for constituents for which federal MCLs have not been established under the regulations referenced at § 257.95(h)(1) (*i.e.*, §§ 141.62 and 141.66) and to consider additional factors when establishing these standards. This proposal has one key change from the 2010 CCR Proposed Rule: the proposed language now allows the permit authority to make a determination on whether to allow alternative groundwater protection standards based on a set of criteria and factors, rather than relying solely on certification by a qualified professional certification. The alternative groundwater protection standards would have to be appropriate health-based levels that satisfy the following criteria:

- The level is derived in a manner consistent with Agency guidelines for assessing the health risks of environmental pollutants. For example, 51 FR 34006, Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures,³⁸ which

supplements 51 FR 34014; the Guidelines for Developmental Toxicity Risk Assessment,³⁹ which amends 51 FR 34028; and the Guidelines for Carcinogen Risk Assessment,⁴⁰ which amends 51 FR 33992;

- For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level (due to continuous lifetime exposure) within the 1×10^{-4} to 1×10^{-6} range; and

- For systemic toxicants, the level represents a concentration to which the human population (including sensitive subgroups) could be exposed to on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime. For purposes of this subpart, systemic toxicants include toxic chemicals that cause effects other than cancer or mutation.

In establishing the alternative groundwater protection standards, the permit authority must consider the following:

- The presence and concentrations of other contaminants in the groundwater;
- Exposure threats to sensitive environmental receptors; and
- Other site-specific exposure or potential exposure to groundwater.

EPA solicits comments on the criteria and factors that should be considered when establishing an alternative groundwater protection standard for constituents without established federal MCLs in the regulations referenced at § 257.95(h)(1) (*i.e.*, §§ 141.62 and 141.66). Additionally, EPA seeks input on any different approaches for determining these alternative groundwater protection standards and their merits. Specifically, EPA requests examples of state programs that utilize alternative groundwater protection standards and the methods, authority, and implementation of those programs.

2. Closure and Post-Closure Care Requirements

EPA is proposing to codify permit flexibilities for units undergoing closure or post-closure care under a federal or participating-State CCR permit. These revisions would allow the Participating State Director or EPA, when serving as the permit authority, to assess an owner or operator's closure plan and approve a unit closure that deviates from the existing standards in § 257.102(c) and (d) when the permit authority determines that the planned closure will have no reasonable probability of

adverse effects to human health and the environment during the active life of the CCR unit and the post-closure care period. Additionally, EPA is proposing to allow the permit authority to extend closure timeframes for CCR units where CCR is being extracted from the unit for beneficial use during closure. EPA is also soliciting comment on whether to adopt an outstanding proposal from 2018 that would allow a permit authority to establish an alternative post-closure care period under certain conditions. Lastly, EPA is proposing to allow a permit authority to permit the disruption of the cap during the post-closure care period, commonly referred to as “unzipping” the cap, to provide access for the extraction of CCR for beneficial use.

a. Closure Method

In the 2015 CCR Rule, EPA finalized closure performance standards for two methods of closure, closure by removal of CCR from the unit and closure with CCR in place. Under § 257.102(c), closure by removal is considered complete when CCR has been removed; any areas affected by the releases from the CCR unit have been removed or decontaminated; and groundwater monitoring concentrations of the constituents listed in appendix IV of part 257 do not exceed groundwater protection standards established pursuant to § 257.95(h). The rule specifies that removal and decontamination activities include removing all CCR from the unit, CCR mixed with soils, and CCR included in berms, liners, or other unit structures, and removing or decontaminating all areas affected by releases from the CCR unit.

For an owner or operator to close a CCR unit in place, the closure performance standards in § 257.102(d) must be met. These closure performance standards require that the unit is closed in a manner that will: (1) Control, minimize, or eliminate, to the maximum extent feasible, post-closure infiltration of liquids into the waste and releases of CCR, leachate, or contaminated run-off to the ground or surface waters or to the atmosphere; (2) Preclude the probability of future impoundment of water, sediment, or slurry; (3) Include measures that provide for major slope stability to prevent the sloughing or movement of the final cover system during the closure and post-closure care period; and (4) Be completed in the shortest amount of time consistent with recognized and generally accepted good engineering practices. Additionally, § 257.102(d)(2)(i) requires that free liquids must be eliminated by removing

³⁷ 80 FR 21405, April 17, 2015.

³⁸ USEPA, “Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures”, EPA/630/R-00/002, August 2000.

³⁹ USEPA, “Guidelines for Developmental Toxicity Risk Assessment”, EPA/600/FR-91/001, December 1991.

⁴⁰ USEPA, “Guidelines for Carcinogen Risk Assessment”, EPA/630/P-03/001F, March 2005.

liquid wastes or solidifying the remaining wastes and waste residues.

Free liquids is currently defined as “liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.” This definition has resulted in significant comments from regulated entities, stating the definition is overly stringent and unnecessarily complicated. Commenters pointed to other EPA programs, such as RCRA subtitle C, claiming that facilities may close their units in place, fully saturated, provided the units do not release free liquids.

As discussed in Unit III.D. of this preamble, following publication of the Legacy Final Rule, EPA received many comments from members of industry on the risk assessment and risk associated with CCR units. Berkshire Hathaway (BH) notes that EPA’s risk assessments ignore differences in regional and site-specific risk profiles. Instead of relying on a generic national-scale assessment, BH urged EPA to allow regulated facilities to submit individual risk assessments. USWAG stated in their comments on the Legacy Final Rule that “the importance of risk assessment in the rule development process under RCRA cannot be overstated. A risk assessment, when properly done, identifies the specific risks potentially posed by a disposal practice and estimates the magnitude of those risks.” In their January 2025 letter to EPA Administrator Lee Zeldin, USWAG states, “the Rule could be vastly improved by moving away from one-size-fits-all self-implementing program to one that provides certainty through the issuance of permits and allows decisions to be made on risk and site-specific conditions.”

As described later in this section and in Unit IV.A.2. of this preamble, members of industry have identified cases in which state regulators approved the closure of CCR units after an evaluation of risk determined there were no unacceptable risks or threats to downstream receptors. Therefore, EPA is proposing to allow the permit authority to approve closures that vary from the existing performance criteria in § 257.102, based on site-specific considerations and criteria, to ensure facilities with complex challenges can close using tailored technical requirements that differ from the 2015 CCR Rule, while not posing a reasonable probability of adverse effects to human health and the environment. As stated in Unit III.D. of this preamble, the existing regulations were developed under a self-implementing framework with no oversight mechanisms to ensure site-specific modifications would be

protective and technically appropriate. As a result, EPA did not include alternatives available in other programs under RCRA or CERCLA, which establish standards allowing a permit authority to tailor the baseline requirements for site-specific conditions. With the establishment of CCR permitting programs run by EPA or participating States, EPA is proposing to provide the opportunity for permit authorities to allow adjustments to the technical requirements of the 2015 CCR Rule that incorporate site-specific factors. As discussed in Units III.D. and IV.B. of this preamble and described next regarding the use of conceptual site models, the ability for regulatory oversight through permit issuance and enforcement enables EPA to create another compliance pathway to meet the RCRA protectiveness standard utilizing adjusted requirements tailored to the site-specific risks presented by each CCR unit.

Under the proposed flexibility to the closure standard, the permit authority may evaluate and approve a closure that differs from the requirements in § 257.102(c) or (d), based on a determination that the alternative closure achieves the standard of no reasonable probability of adverse effects to human health and the environment. Under this alternative, the permit authority’s approval must be based on a site-specific conceptual site model (CSM) and risk assessment of the facility area in which the CCR unit is located. This assessment must include the following: field collected measurements, aquifer characteristics, waste characteristics, climatic conditions, leachate characteristics, engineered controls, fate and transport predictions, exposure pathways, and downgradient receptors.

CSMs are excellent tools to achieve, communicate, and maintain consensus between project partners. They are widely used throughout EPA programs such as Superfund, RCRA subtitle C, and subtitle D. A CSM is an iterative, ‘living representation’ of a site that summarizes and helps all parties understand available information. A CSM uses a concise combination of written and graphical work products to portray both known and hypothesized site information. Using CSMs is considered a best management practice for technical effectiveness and resource efficiency. To properly quantify and understand potential risk from a CCR unit, site-specific criteria would be required to be included within the creation and evolution of a CSM.

When working through the information to understand a unit, it is

helpful to initially take a step back and look at the regional and locational geography and topography of an area to establish a foundation of understanding. However, EPA is proposing to require a CCR unit’s CSM to have site-specific data to build off the initial foundation. Therefore, adequate characterization via field collected measurements must be utilized for the creation of a unit’s CSM. Field measurements to understand the subsurface geology and stratigraphy are essential to understanding the subsurface forces at play within and below a CCR unit. Groundwater elevation, groundwater discharge and recharge, hydraulic conductivity, hydraulic gradient, effective porosity, and degree of saturation build the CSM to inform and define the aquifer(s). When looking at hydrogeology, it is imperative to not assume aquifer homogeneity. Many aquifers are heterogeneous and vary over lateral and vertical distance. Without a good understanding of the features such as degree of fracturing, secondary porosity, and geochemistry of the soils and bedrock, obtaining an accurate determination of fate and transport pathways to downgradient receptors is unlikely. Many times, these features and their characteristics are what provide the preferential pathways for the constituents listed in appendix III and IV of part 257. Innovative sampling or surveying may be useful for facilities with large CCR units or deep aquifers. Geophysical surveying can provide expenditure relief, but it is essential that the assumptions made during such surveys are corroborated with field hydrogeologic data.

In building the CSM, after the foundation and understanding of the subsurface is established, the evaluation and inclusion of the emplaced, or disposed material would need to be evaluated to understand the potential impacts that material may have on the surrounding environment. It is known that CCR consists of multiple types of material of varying characteristics. As an example, fly ash tends to have a much smaller grain size than bottom ash. Lower permeability materials, such as fly ash, will likely hold onto liquid, because of this common property of fly ash, members of industry have mentioned that it is very difficult to entirely dewater units. For example, in their *White Paper—Recommendations for Updating the Federal Coal Combustion (CCR) Regulations*, CCIG mentions a member who is closing a large impoundment. While the member has been dewatering the unit to provide a stable subgrade for final closure

construction, the fine-grained CCR materials yield water very slowly, making it impossible to remove all liquid prior to placing the cover system within the closure timeframe allowed under the existing regulations. CCIG urged EPA to revise the performance standards to account for practical and risk considerations. EPA understands that for older facilities, it may be difficult to know exactly what was emplaced and when. This criteria of the waste emplaced and its characteristics, such as composition, solubility, density, the presence of immiscible constituents, Eh and pH, must be evaluated, when feasible, as it provides information on how the CCR will interact with the surrounding environment.

After establishing an understanding of the regional area, site-specific hydrogeology, and emplaced CCR, the owner or operators should incorporate into the CSM any additional engineered controls that are currently ongoing at the site as these controls impact the surrounding and subsurface forces at play. One of the most common engineered controls that we see at CCR units is the cap or cover of the unit. If CCR is left in place, a final cover must be installed within the appropriate timeframe. In accordance with the existing regulations, a description of the final cover and the procedures to be used to install the final cover must be provided in the unit's closure plan. The owner or operator must also ensure the design of the final cover system meets the performance standards specified in the regulation. The final cover system must be designed to have a permeability less than or equal to the permeability of any bottom liner system or the natural subsoils present, or a permeability no greater than 1×10^{-5} centimeters per second (cm/sec), whichever is less.

Since the promulgation of the 2015 CCR Final Rule EPA has received inquiries about the potential of alternative covers, specifically regarding engineered turf covers. EPA reviewed documentation on the components and performance of engineered turf as a final cover system and considers it to be sufficient if it meets the performance standards in the regulation. Engineered turf as a final cover consists of a three-component system: a structured geomembrane, engineered turf, and specified infill. The structured geomembrane layer acts as a barrier layer minimizing, or more ideally eliminating, infiltration while also providing a drainage layer to minimize hydraulic head on the liner. The engineered turf portion provides protection from UV degradation and soil erosion. The specified infill layer

provides a protection layer, both covering and underlying the geotextile backing and geomembrane from UV degradation. It additionally provides protection from wind uplift and protects the turf from fire. Documentation on engineered turf provided to the Agency identified that under the Hydrologic Evaluation of Landfill Performance (HELP) model, engineered turf outperforms prescriptive subtitle D-required covers with geocomposite drainage by an order of magnitude. That being said, it is imperative for the owner or operator to demonstrate the final cover system, even if engineered turf, meets the required performance standards and the permit authority must concur with the findings.

Additional engineered examples that should be evaluated and included in the CSM can range from pump-and-treat systems to barrier walls, and other remedial infrastructures. For example, if a unit is in corrective action and has an operating pump-and-treat system to capture the plume of an appendix IV constituent, the redirection or impact on the local groundwater may change previous understandings of preferential pathways or exposure pathways. It is important to understand the purpose and impact engineered control(s) have on a unit, and its intended lifespan and what were to happen if and when the engineered control(s) were to be removed. Contaminant fate and transport groundwater modeling is a common tool that can be utilized to understand an area, its subsurface, and what influences and impacts an environment. For contaminant fate and transport or even a more simplistic groundwater flow model to be effective, it must have site-specific information imbedded in the model.

As a living representation, CSMs are not intended to be a one-and-done administrative task, rather they are an opportunity to take what we know of a unit, expand our knowledge, and ground-truth the information we have. It is a best practice to update CSMs as new information is obtained that improves our understanding of a facility or a unit. If a unit is not properly characterized, the CSM will be limited, data gaps will likely cause challenges down the line that ultimately led to higher expenditure for closure or remediation.

The second part of the assessment consists of a risk assessment. As mentioned above in this section and in Unit IV.A.2., members from industry have informed EPA that they have units previously closed in place, under state oversight, based on a determination of no unacceptable risk. As described in Unit III.D. of this proposal, the 2014 and

2024 Risk Assessments are based on high-end exposure levels. Many in the regulated community have stated that the one-size-fits-all solution does not accurately relate to their facilities and units and that a site-specific risk assessment should be allowed to provide flexibility and address challenges faced in the closure process. This is especially expressed by those in the regulated community that have previously closed their CCR unit under state oversight that required a risk assessment and state concurrence with any conclusion of no unacceptable risk to human health and the environment.

As noted in Unit IV.B. above, the majority of state and industry commenters on the proposal that resulted in the 2015 CCR rule preferred regulations that would allow site-specific approaches to establishing standards (See 80 FR 21331–21234). Commenters argued that the prescriptive one-size-fits-all approach was overly stringent and inflexible and had the potential to greatly disrupt implementation of a state's regulatory programs, which have been tailored to provide for site specific conditions and situations. As described in Unit III.D., EPA acknowledges that the CCR universe includes a variety of sites and site conditions and therefore, no single site can represent all regulated facilities. An example highlighting the uniqueness of sites and the need for site-specific approaches is Georgia Power's Grumman Road CCR Unit, located in Chatham County. This unit is owned and operated by Georgia Power and previously used for the disposal of CCR for Georgia Power's Plant Kraft. Additionally, all ongoing work on and related to this unit is overseen and regulated by the Georgia Environmental Protection Division (EPD). The unit being discussed here is separate to the unit previously discussed in Unit IV.A.2. of this preamble discussing the Kraft Legacy CCR unit closed under Georgia's Voluntary Remediation Program. The unit was retired in late 2015 and is regulated under the Federal Rule and Georgia's Solid Waste Management CCR Regulations 391–3–4.10.

The Grumman Road CCR unit has a monitoring well system, with lateral well spacings ranging from approximately 230 feet to 414 feet, with an average lateral well spacing on the order of 324 feet. This well network has been established for both detection and assessment monitoring of appendix III and appendix IV constituents. This unit has undergone many iterations of its CSM, with each revision growing in specificity to understand the

interworking of not only the immediate subsurface of the unit, but also the surrounding environmental and anthropogenic factors impacting the unit. Over the years, Georgia Power has worked alongside Georgia EPD, a State with a partially approved CCR program, to further develop the unit's CSM. Additionally, via fieldwork, sampling and bench tests, Georgia Power has developed many iterations of Hydrogeological Assessment Reports under the oversight of the state.

As mentioned earlier, a robust site-specific characterization is key in understanding any site including the surrounding environment in which it is located. The permit drawings of the Grumman Road CCR unit identify a small percentage of saturation for the southern portion of the unit, which is likely in contact with groundwater year-round. According to Georgia Power, another site-specific factor that influences decision making for this unit, are anthropogenic impacts from an adjacent landfill's release of leachate. Georgia Power states that the adjacent landfill's seep impacts the Grumman Road CCR Unit by changing the redox conditions of the aquifer, which is inducing mobilization of arsenic and molybdenum as dissolved constituents in groundwater. Such characterization details must be understood in order to evaluate releases from the CCR unit in the context of background and other factors. This does not change the fact that Grumman Road has an ongoing release and that it must be addressed via corrective action. In coordination with Georgia EPD, Georgia Power initiated an Assessment of Corrective Measures program for Grumman Road in December 2020.

As part of the Assessment of Corrective Measures, Georgia Power conducted a Risk Evaluation, which can be found in appendix B of the Remedy Selection Report. The provided report relies on risk approaches outlined in Georgia's Voluntary Remediation Program with components of the Risk Assessment Guidance for Superfund (RAGS). The Risk Evaluation considered potential transport pathways, exposure pathways, and both current and future receptors. Georgia Power reviewed the concentrations and statistics for wells of the unit, individually. Additionally, Georgia Power conducted modeling to estimate the current areal extent of the plume. Georgia Power concluded in their risk evaluation that the SSL-related constituents arsenic and molybdenum are not expected to pose a risk to human health or the environment.

It is understood that remedial investigations, feasibility studies,

determinations of the most effective remedial technologies and implementation of those technologies take time. Additionally, there is the time for the remedial technology to influence, reduce, or eliminate source zones, which will in turn, impact whatever risk(s) may be present at a site. According to Georgia Power, the lack of immediate exposure allows for the comprehensive evaluation of remedial technologies and a deeper understanding of the geochemistry of the subsurface. This is detailed in Georgia Power's Assessment of Corrective Measures Report Appendix A, the Geochemical Site Model. While this site is still undergoing corrective action, it supports the use of regulatory flexibility based on site-specific information and risk evaluations. Aquifer geochemistry, anthropogenic impacts, and other site-specific conditions cannot be generically applied across all sites, which is why a robust CSM is critical for the purposes of decision-making. It is important to note that EPA recognizes that a remedy has not yet been selected and additional work is necessary in order to complete corrective action.

In another example, the state of Tennessee and its Department of Environment and Conservation (TDEC) issue a Commissioner's Order to TVA at seven coal-fired power plant facilities. This Order required TVA to conduct environmental investigations and assessments for all CCR disposal areas. One of the required deliverables from the Order was a risk assessment, to be included in the Corrective Action/Risk Assessment (CARA) Plan. TVA submitted a CARA for the Allen Fossil Plant West Ash Disposal Area, which according to TVA, was found to be acceptable by TDEC. This can be found on both TDEC's website, TVA's public website, and within docket of this proposal. TVA presented their findings from their Draft CARA for the John Sevier Fossil Plant to identify current challenges with the Rule. The John Sevier Draft CARA contained a CSM of the site and a risk assessment that evaluated risk both for human health and ecological risks.

Under this proposal, if Tennessee were to apply for CCR permit program, and if the program is ultimately approved, TDEC could approve TVA's proposed closure (*i.e.*, authorize TVA to close with saturated CCR in place), if TDEC concluded, based on an evaluation of the CARA, that the proposed closure does not pose a reasonable probability of adverse effects to human health or the environment based on the criteria set forth in this

proposed regulation. EPA expects the permit authority to ensure all current and future human and ecological receptors are considered within the risk assessment and CSM. This would require the owner or operator to evaluate all current and any future planned land use, identify receptors, and exposure routes. If corrective action is ongoing or an engineered control is onsite, the potential risk should be evaluated if or when the acting life of the engineered control or corrective action is ceased.

Another example supporting this flexibility was provided by Vistra Corp. Vistra had a CCR unit that was taken out of service in 1996 and has been subject to groundwater sampling since that time. The utility closed the unit pursuant to state approval. Standing water was removed, and a final cover system was installed pursuant to the federal CCR Rule in 2020. The final cover consisted of a compacted soil barrier clay layer with a minimum of 24 inches of earthen material with a maximum permeability of 1×10^{-7} cm/s. According to Vistra, in limited areas, ash may be saturated with groundwater during higher flood events. While an exceedance of an appendix III constituent has been detected, the company states that the data demonstrates that simply dewatering and taking the unit offline resulted in significant decreasing trends of the appendix III constituent, with some wells now achieving compliance with the groundwater protection standard. Under this proposal, once the state's CCR permit program was approved, the state could approve the closure described above, if the state determined the closure posed no reasonable probability of adverse effects to health or the environment after conducting a review as discussed above.

A final example of the need for this flexibility is the East Ash Basin at Duke Energy's Roxboro Steam Electric Plant in North Carolina. During and after the Legacy Rulemaking, Duke provided information to EPA on past, present, and future activities at their facilities conducted under the oversight of the NCDEQ and pursuant to the 2020 Consent Order and under the oversight of North Carolina's CCR program. According to Duke Energy, there are two CCR surface impoundments at the Roxboro facility, the East Ash Basin and the West Ash Basin, and a CCR landfill, the Industrial Landfill. Neither of the impoundments receive CCR wastestreams anymore. The Industrial Landfill receives CCR from electrical production and for CCR consolidation from other CCR units at the facility. The

East Ash Basin was approximately 71 acres and contained approximately 7.1 million tons of CCR. The Industrial Landfill was constructed partially atop and adjacent to the East Ash Basin and is approximately 132 acres in size.

Duke Energy submitted a closure plan to NDEQ by the December 31, 2019 deadline set by the 2016 CAMA and in accordance with a 2019 settlement agreement between Duke and NCDEQ. NCDEQ subsequently approved the closure plan which included excavating approximately 15.4 million tons of CCR from surface impoundments at Roxboro. The closure plan also allowed the East Ash Basin to close with some saturated ash remaining in the unit underneath the overlying Industrial Landfill. According to Duke Energy, closure of the surface impoundments, under the oversight of NCDEQ, is ongoing at the facility with a completion deadline of December 2036, pursuant to the 2020 Consent Order. The primary activities are source removal and capping measures, with 1,116,988 tons of ash and soil excavated from the East Ash Basin and 4,153,402 tons from the West Ash Basin as of July 2025.

Duke submitted the Roxboro East Ash Basin Corrective Action Plan (CAP) to NCDEQ in December 2019 in accordance with CAMA. NCDEQ conditionally approved the CAP in April 2021. A pilot testing phase began in November 2021, followed by the full-scale system start-up in January 2023. Under the 2020 Consent Order which applies to the Roxboro surface impoundments among other surface impoundments in the state, groundwater standards for constituents of interest must be met by December 31, 2029, at the geographic limitation, 500 feet downgradient of the waste boundary. Pursuant to the conditions of the 2020 Consent Order, groundwater modeling updates are required every three years, with the first update submitted to NCDEQ in September 2023. The CAP system includes a pump-and-treat-system consisting of 41 extraction wells, 3 node boxes, and 29,390 linear feet of piping and an engineered liner on top of the East Ash Basin was installed to control contamination coming from the unit. According to Duke, the system's average flow rate decreased from 108 gallons per minute (gpm) to 80 gpm due to bedrock dewatering. Extracted water is treated before discharge through a permitted NPDES outfall. Duke has stated that hydraulic gradient reversal is occurring at the facility and thus prevents constituents of interest migration toward surface water receptors, ensuring no unacceptable risks to human health

or the environment. The utility has provided data that it claims demonstrates that groundwater quality around the East Ash Basin has improved significantly, with 62 percent of all constituents of interest and 83 percent of primary constituents meeting compliance standards at or beyond the geographic limitation as of the fourth quarter of 2024. Duke contends that the high boron concentrations are attributed to non-ash basin sources, and trends show decreasing or stable levels for most constituents of interest.

Duke points to the CAP data, the risk assessment required under CAMA, the oversight of NCDEQ and the permanent alternative water sources that have been provided to nearby residents as a precautionary measure, as evidence that the closure of the East Ash Basin is protective of human health and the environment and as an example of both the need for site-specific considerations, especially with regard to closure, and the sufficiency of state-led compliance activities.

The NCDEQ-approved closure of the East Ash Basin would not meet the current federal CCR closure requirements; for example, the requirement to remove all free liquids prior to installing the final cover system. Under this proposal, the permit authority (either the state's CCR permit program once it was approved or the federal CCR permit program) could evaluate the NCDEQ closure and conclude the closure poses no reasonable probability of adverse effects to health or the environment and no further closure activities are required to comply with the federal CCR closure requirements.

As described in Unit III.D. of this preamble, such a site-specific determination was not available under the 2015 CCR Rule as EPA lacked permitting and enforcement authority. Now with the new tools provided by the WIIN Act, and EPA's broad discretion to adopt performance-based criteria based on a record of protectiveness, enable EPA to adopt provisions that create another pathway for compliance with the federal CCR regulations. Specifically, this provision would allow EPA or a participating-state permit authority to establish alternative closure requirements through the permitting process based on site-specific information.

Solicitation of comment. Although the current proposal applies exclusively to closure, many of the same issues were raised in the context of corrective action. EPA is therefore soliciting comment on whether to expand this provision to allow a permit authority to

approve corrective action remedies that do not meet the requirements of § 257.97(b) based on the results of a site-specific risk assessment that meets the criteria discussed above. EPA is also soliciting comment on what, if any, change in burden the proposed provision or the expansion of the proposed provision to corrective action would have on state permitting authorities.

EPA is also soliciting comment on a provision in 85 FR 12456, which was proposed on March 3, 2020. In this 2020 proposal, EPA proposed to allow the use of CCR during the closure of a unit subject to closure for cause if such placement is conducted under an approved closure plan. The 2020 proposed alternative would be implemented as an exemption to the waste placement prohibition. It is unclear if this 2020 proposal should be finalized, as the new proposed permitting closure flexibility of closure would allow the permit authority to make site-specific determinations to allow for this utilization of CCR during closure. Therefore, EPA is soliciting comment on whether this provision should be finalized as proposed under the first option in the 2020 proposed rule.

Finally, EPA is soliciting comment on an alternative provision that would provide flexibility regarding the drainage and stabilization requirements for CCR units closing with waste in place at § 257.102(d)(2)(i). Under this alternative provision, owners or operators could close a unit with saturated CCR in place if a permit authority has determined that certain conditions were met. In order to obtain this flexibility, the permit authority must evaluate the closure plan and ensure the following: (1) To promote the workability and stability of the final cover for the CCR unit, standing liquid and sufficient subsurface liquid has been eliminated; (2) The hydraulic condition within the CCR unit will not adversely impact the stability of the final cover system or the ability for the remaining wastes to support the final cover system; (3) The hydraulic condition within the CCR unit will not adversely impact the ability to implement any corrective action(s) necessary to meet the requirements of §§ 257.96–257.98; and (4) The hydraulic condition within the CCR unit will not result in a reasonable probability of adverse effects to human health and ecological receptors as determined through a site-specific assessment that evaluates all potential exposure pathways. If the permit authority determines that all these conditions

have been met, the owner or operator can close with CCR in place in accordance with the provisions in § 257.102(d) aside from the requirement at § 257.102(d)(2)(i) (*i.e.*, any liquids remaining in the CCR unit need not be removed).

b. Closure Timeframes for CCR Units Extracting CCR for Beneficial Use During Closure

EPA is proposing to allow the permit authority to extend closure timeframes for CCR units where CCR is being extracted from the unit for beneficial use during closure. In the 2015 CCR Rule, EPA finalized closure timeframes that adopted the approach recommended by commenters of tiered timeframes based primarily on size of the surface impoundment, and the concept of a rebuttable presumption that the owner and operator of a CCR surface impoundment must complete closure of the CCR unit within five years of initiating closure activities. For CCR landfills, the owner or operator of the unit must normally complete closure within six months of initiating closure activities.

When reviewing comments on the 2010 CCR Proposed Rule regarding the closure timeframes and potential extensions, many of the regulated community identified concerns regarding the challenges in estimating closure timeframes. As a response, with the provided record at that time, EPA established a tiered approach for closure timeframe extensions which could be applied under the self-implementing regulatory framework.

The tiered approach adopted for the 2015 CCR Rule allows CCR surface impoundments additional time dependent on size of the unit, using surface area acreage of the CCR as the determining factor for defining the size of the unit. Smaller impoundments, defined as 40 acres or less have the maximum extension time of two years. Impoundments larger than 40 acres are allowed a maximum of five two-year extensions, with the requirement that the owner or operator must substantiate the factual circumstances demonstrating the need for each two-year extension. Closure extensions for CCR landfills do not vary dependent on size. Rather, all CCR landfills are allowed the maximum of two one-year extensions. Similarly to surface impoundment units, the owner or operator of the CCR landfill document the factual circumstances demonstrating the need for each one-year extension. The documentation must include the exact reason why additional time is needed. The regulation includes examples such as:

complications stemming from climate and weather, time required to dewater a surface impoundment due to the volume of CCR or the CCR geotechnical characteristics, the geology and terrain surrounding the CCR, and the time required or delays caused by the need to obtain state permits or to comply with other state requirements.

With the record provided, EPA determined in the 2015 CCR Final Rule that the initial timeframes would be sufficient to close most, if not all CCR units and therefore, the extensions would accommodate for any potential delays caused by weather or other instances designated as “force majeure.” However, uncertainties within the provided record were identified and documented in the 2015 CCR Rule such as: the Agency mentioned it had no information on the geotechnical properties of the CCR that can affect the time needed to dewater a unit, the volumes of clays, soils, and other materials that would be needed for closure, and the information on the time to obtain state approvals. Further, EPA stated in the preamble that the level of uncertainty increases with impoundments larger than 40 acres. Some documentation in the record indicates that closure for units larger than 40 acres can be closed within the same timeframe but other case studies provided stated that closure was expected to take much longer than five years.

The Legacy Final Rule revised the closure timeframes set forth in the 2015 CCR Rule for owners or operators of landfills that were identified as having CCR in contact with groundwater and therefore, needed additional time to dewater the unit. The amount of time extended, similarly to surface impoundments, was dependent on the acreage of the landfill. Therefore, a landfill in this situation less than 40 acres may receive a maximum extension of two years and those greater than 40 acres may receive a maximum extension of 10 years, in two-year increments. Similarly to the provisions in the 2015 CCR Rule, documentation of the need for this extra time must be documented.

Commenters of the 2015 CCR Rule recommended another approach of allowing closure timeframes to be governed by an adequate state-approved closure process. In the 2015 Final Rule, EPA identified that under a self-implementing program, the Agency cannot rely on the existence of the state permit authority to implement subtitle D requirements. With the enactment of the WIIN Act, EPA now has “new tools” to achieve its regulatory goals, namely the authority to issue permits, enforce

the regulations, and approve state CCR permit programs; with the oversight mechanisms provided by the “new tools” a permit authority is able to implement the criteria to ensure an extended closure timeframe still meets the required standard of no reasonable probability of adverse effects on health or the environment.

Since promulgation of the 2015 CCR Rule, states and members of the regulated community expressed concern or have provided EPA with information to demonstrate the infeasibility of the existing closure timeframes for CCR units who wish to excavate CCR for beneficial use during closure. For example, TVA stated that certain units could not complete extraction of CCR for beneficial use within the current closure deadlines. To support this claim, TVA pointed to larger volume units, units that start CCR extractions partway through the closure process, or units that have already completed closure.

Further, PacifiCorp has expressed concern that the existing CCR regulations do not provide sufficient time for closure by removal. According to PacifiCorp, the extension process and the maximum timeframe may still be inadequate to maximize excavation and beneficial use opportunities. PacifiCorp requested that EPA consider not requiring multiple timeline extension demonstrations for closure that involve extraction of CCR for beneficial use, provided that the initial extension schedule is appropriately supported by extraction and beneficial use contracts. In their request, it was suggested that industry could provide regular updates in the form of annual progress reports. By having the flexibility, PacifiCorp maintained that it would ultimately enhance environmental protection through source removal.

As another example, Talen Energy stated that there are challenges in finding a beneficial use provider capable of accepting millions of tons of CCR over many years. Further, the utility has claimed that removing, loading, and hauling of millions of tons of CCR from a single source and within the current timeframes is not always possible. According to Talen Energy, there are several conditions that pose challenges to meeting the existing deadlines when closing by removal with CCR extraction for beneficial use as a component, such as: lack of onsite space to build a new landfill, or available landfill capacity; local road impacts, due to the amount of trucks; bridge load restrictions; community opposition to increased truck traffic; demand for the end-product (*e.g.*, cement) or raw

materials, which limits the rate of outgoing CCR; safety concerns with basin excavation and specialized CCR product handling; additional volumes of CCR identified during closure; and non-CCR material identification and disposal. Accordingly, the utility suggested that EPA allow for flexibility regarding the closure timeframes when extracting CCR for beneficial use from the closing CCR unit.

Southern Company reached out to EPA to discuss their progress with projects involving the extraction of CCR for beneficial use. According to the company, all their extracted CCR is encapsulated in the form of either concrete block, as filler, or otherwise used in the cement or concrete manufacturing process. According to Southern Company, they have taken a market-driven approach to the extraction of CCR and strict adherence to the existing closure timeframe or certain closure activities could impact the ability of the CCR supply to continue to meet demand.

In addition to industry, States have also requested flexibility. For example, Tennessee has requested that EPA consider adjusting timeframes for closure to allow for CCR extraction of beneficial use. Further, the Agency has received input from states requesting EPA allow flexibility with respect to determining timeframes.

Recognizing these site-specific situations, and considering the new tools provided by the 2016 WIIN Act, EPA's ability to allow for non-uniformity in achieving the RCRA protectiveness standard, and EPA's discretion to adopt performance-based criteria based on a record of protectiveness, EPA proposes to allow flexibility for permit authorities to authorize adequate time to complete extraction of CCR for beneficial use from CCR units undergoing closure. The proposed amendment would authorize a permit authority to review and approve closures that include as a component of the overall closure method, extraction of CCR for beneficial use, only if the Director finds, based on specific criteria and a demonstration by the owner or operator, that there would be no reasonable probability of adverse effects on health or the environment.

EPA is proposing to establish criteria for the closure flexibility assessment that will be conducted by the permit authority. Such an evaluation is unit-specific, so the permit application, which would include a detailed closure plan and any supporting documents such as detailed design drawings and schedules, must be adequate to support the evaluation. First, the permit

authority must ensure measures for major slope stability are in place to prevent the sloughing or movement of the unit during the closure period. Second, the permit authority must determine the extraction of CCR and closure will be completed consistent with recognized and generally accepted good engineering practices. Third, the permit authority must consider whether all potential risks to human health and the environment during closure of the unit are adequately mitigated. Fourth, the permit authority must evaluate whether the facility is in substantial compliance with all other requirements of this subpart, including the requirement to conduct groundwater monitoring and any necessary corrective action. By ensuring that groundwater monitoring and corrective action activities continue throughout the extended closure timeframe, the permit authority will have the ability to require the facility to take action, if necessary, to ensure there will be no reasonable probability of adverse effects on health or the environment. Lastly, the owner or operator must proceed with closure activities of any portion of the CCR unit that is not related to the extraction of CCR for beneficial use within the existing timeframes in § 257.102 to the extent possible. Under this approach, the permit authority could extend the closure timeframe for owners or operators of units during which extractions of CCR will occur during the closures. It is important to note that any extension of the final closure date will occur under conditions where the unit has groundwater monitoring in place and corrective action requirements will be triggered should a release be detected—these requirements can be relied upon by the permit authority in making its protectiveness determination.

Solicitation of comment. The Agency is soliciting comment on whether to allow the permit authority to extend timeframes for all closures, regardless if the closure includes beneficial use activities. Additionally, the Agency requests comment if there should be a “good cause” condition, or whether there should be criteria to frame the discretion by the permit authority. Furthermore, EPA is requesting comment on specifying that the closure timeframe flexibility can also be applied to allow adequate time to complete extraction of CCR for critical mineral recovery activities. While the recovery of critical minerals from CCR is not a direct use of the CCR, it is a resource recovery activity (*i.e.*, an activity supported by RCRA statutory

provisions) that has the potential to play a crucial role in maintaining technological advancement, economic growth, and national security. Critical minerals are a group of elements and compounds that are essential in the production of modern technologies and industries. Examples of these minerals include lithium, cobalt, nickel, graphite, manganese, and rare earth elements such as neodymium, praseodymium, and dysprosium. Their unique properties, such as conductivity, magnetism, and strength, make them indispensable for various technological applications.

The Department of Energy's National Laboratories have developed several technologies that focus on extracting critical minerals and rare earth elements from CCR. Each method has been tested at the lab scale and is ready for companies to further develop, refine, and scale into commercial systems.⁴¹ However, these technologies are still at an early stage in development, and there are several barriers to overcome before full-scale commercial critical mineral extraction activities are feasible. EPA requests comment on using closure and post-closure flexibilities as a way of encouraging the development of this industry, and requests information on any other regulatory barriers to developing environmentally protective processes for critical mineral extraction from CCR. Information on commercialization would be particularly helpful, including a projected timeline and the specific barriers yet to be addressed, such as environmental and economic factors. EPA also requests information on likely commercialization models with their logistics, such as planned location for recovery operations, (*e.g.*, onsite at a utility or off-site at a regional center; types of activities necessary to prepare CCR for processing; expected amounts and management of CCR prior to critical minerals recovery; preferred technological processes to extract, purify and separate critical minerals; and residuals or wastes generated by the technologies, including the characteristics and the ultimate management of those wastes).

c. Post-Closure Care Flexibility for Units Undergoing Extraction for Beneficial Reuse

Following closure of a CCR unit, the owner or operator is required to conduct

⁴¹ U.S. Department of Energy. *A new chapter for coal: Commercialization opportunities at DOE labs*. Retrieved November 12, 2025, from <https://www.energy.gov/technologycommercialization/articles/new-chapter-coal-commercialization-opportunities-doe-labs>.

post-closure care of any closed unit where CCR was left in place as part of closure. At a minimum, the owner or operator is required to comply with at least the following: (1) Maintain the integrity and effectiveness of any final cover system, including making repairs to the final cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover; (2) If the CCR unit is subject to the design criteria under § 257.70, maintain the integrity and effectiveness of the leachate collection and removal system and operate the leachate collection and removal system in accordance with the requirements of § 257.70; and (3) Maintain the groundwater monitoring system and monitoring the groundwater in accordance with the requirements of §§ 257.90 through 257.98. See § 257.104(b).

Additionally, the existing CCR regulations identify the minimum information necessary to include in the post-closure care plan. This information includes: (1) A description of the monitoring and maintenance activities required by § 257.104(b), and the frequency at which these activities would be performed; (2) The name, address, telephone number, and email address of the person or office to contact about the facility during the post-closure care period; and (3) A description of the planned uses of the property during the post-closure care period. The proposed rule further provided that the post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the post-closure monitoring systems unless necessary to comply with the requirements of the rule. As written, the existing regulations at § 257.104(d)(1)(iii) do allow for a disturbance if the owner or operator of the CCR unit can demonstrate that disturbance of the final cover, liner, or other component of the containment system, including any removal of CCR, would not increase the potential threat to human health or the environment. Such a demonstration is required to be certified by a qualified professional engineer or approved by the Participating State Director or EPA, where EPA is the permit authority. Additionally, a notification shall be provided to the State Director that the demonstration has been placed in the operating record and on the owners or operator's CCR website.

Since promulgation of the 2015 CCR Rule, states and members of the regulated community expressed concern

that the current regulations could be interpreted in such a way as to prevent extraction of CCR for beneficial use during the post-closure care period. Specifically, there is concern that the requirement to maintain a cap over the unit would prevent access to the material beneath the cap for beneficial use projects. Members of industry has asked for an allowance for disturbing the cap to provide such access, commonly referred to as “unzipping”. The Agency maintains that under the existing rules, the owner or operator of the CCR unit has the ability to demonstrate that disturbance of the final cover, liner, or other component of the containment system, including any removal of CCR, would not increase the potential threat to human health or the environment. A qualified professional engineer is required to certify such a demonstration. See § 257.104(d)(1)(iii). Nevertheless, to avoid any uncertainty EPA is proposing a new provision to explicitly allow a permit authority to have the flexibility to approve the extraction of CCR from a closed CCR unit during the post-closure care period under certain conditions. Under this approach, for extraction of CCR for beneficial use during the post-closure period, the permit authority may adjust the minimum criteria only if the authority finds, based on a demonstration by the owner or operator, that any extraction of CCR for beneficial use will not pose a reasonable probability of adverse effects to human health and the environment. In reaching this determination, the permit authority must conclude all of the following: the extraction of CCR will be completed consistent with recognized and generally accepted good engineering practices; potential risks to human health and the environment during post-closure are adequately mitigated; and the facility is in substantial compliance with all other requirements of this subpart, including the requirement to conduct post-closure care, groundwater monitoring and any necessary corrective action.

d. Modification of the Post-Closure Care Period

The current regulations at § 257.104(c)(1) state that the owner or operator of a closed CCR unit must conduct post-closure care for 30 years unless at the end of the 30 years corrective action is on-going, or the CCR unit is operating under assessment monitoring, in which case the owner or operator must continue to conduct post-closure care until the unit has returned to detection monitoring.

In 2018, following the enactment of the WIIN Act, EPA proposed to adopt a provision analogous to § 258.61(b), that would allow the Director of a participating state to decrease the length of the post-closure care period if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the Director. It also would allow the Director of the participating state to increase the length of the post closure period if the Director determines a lengthened period is necessary to protect human health and the environment. 83 FR 11584, 11603–604 (Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Amendments to the National Minimum Criteria (Phase One)) EPA–HQ–OLEM–2017–0286; FRL–9973–31–OLEM).

Due to competing priorities EPA did not finalize that proposal and it remains pending. EPA is now again soliciting comment on whether to adopt those proposals.

C. Beneficial Use

EPA is proposing to revise the definition of beneficial use for CCR to recognize that the first three criteria in the beneficial use definition provide a sufficient framework for identifying when placement of CCR on the land, whether encapsulated or unencapsulated, roadway or non-roadway, constitutes a beneficial use rather than disposal under the RCRA statute. EPA is also proposing to remove the fourth criterion that currently requires that the “user must demonstrate and keep records, and provide such documentation upon request, that environmental releases to groundwater, surface water, soil and air are comparable to or lower than those from analogous products made without CCR, or that environmental releases to groundwater, surface water, soil and air will be at or below relevant regulatory and health-based benchmarks for human and ecological receptors during use” for unencapsulated non-roadway uses on the land above the threshold of 12,400 tons, finding that: (1) The 12,400 ton threshold is based on faulty information, (2) The demonstration requirement poses an unacceptable barrier to beneficial use, and (3) The fourth criterion is not needed to prevent disposal of unencapsulated CCR that would present a reasonable probability of adverse effects on health or the environment. This change in the Agency's position in regard to the regulation of unencapsulated non-

roadway CCR use is based on an analysis of past damage incidents and the most recent industry standards for CCR used as structural fill.

EPA is also proposing new definitions of “CCR storage pile” and “temporary accumulation” to establish a single set of requirements applicable to all temporary placement of unencapsulated CCR on the land, whether managed onsite or off-site, and whether destined for beneficial use or disposal. These new proposed definitions are similar to those proposed in 2019,⁴² with some adjustments to the previously proposed language to make the requirements clearer and less burdensome. EPA is also proposing to remove the definition of “CCR pile” found at § 257.53 and instead address CCR accumulations that do not meet the definition of CCR storage pile directly in the definition of CCR landfill.

In addition, recognizing the unique role CCR plays as an ingredient in cement manufacturing, EPA is proposing to add a provision at § 257.50(k) to exclude from the requirements of 40 CFR part 257 CCR at cement kilns that is destined for use as an ingredient in cement manufacturing. This proposed provision acknowledges the benefit CCR provides as an ingredient in cement manufacturing, and how this benefit incentivizes the management of CCR as a valuable commodity at the cement kiln and helps ensure it will be appropriately incorporated in an encapsulated beneficial use. EPA is also requesting comment on whether it would be helpful to include a regulatory clarification explaining that the current industry management practices for CCR fly ash that is used directly in concrete production as a substitute for Portland cement are not subject to the 40 CFR part 257 CCR requirements.

Finally, EPA is proposing a new provision at § 257.50(l) to exclude flue gas desulfurization (FGD) gypsum, when destined to be applied as an agricultural amendment at agronomically appropriate rates, and to exclude FGD gypsum destined for use as an ingredient in wallboard manufacturing.

The proposed categorical exclusions for these three beneficial uses are based on the specific circumstances of these uses which incentivize the management of the CCR as a valuable commodity prior to beneficial use, and on EPA’s proposed determination that these uses categorically meet the definition of beneficial use.

1. Definition of Beneficial Use

a. The First Three Beneficial Use Criteria Provide a Sufficient Framework for Beneficial Use Determinations

EPA is proposing that the first three criteria of the beneficial use definition found at § 257.53 provide a sufficient regulatory framework for identifying when any placement of CCR on the land, whether encapsulated or non-encapsulated, roadway or non-roadway, constitutes a beneficial use and not disposal under the RCRA statute.

The first three beneficial use criteria currently apply to all CCR uses, whether encapsulated, unencapsulated, roadway, or non-roadway. When EPA proposed to revise the fourth beneficial use criterion in the 2019 CCR proposal, the Agency noted in the proposal that the first three criteria still remain as finalized in the 2015 CCR rule. (84 FR 40356)

As noted in the 2015 CCR Rule, the first criterion, that CCR must provide a functional benefit, is designed to ensure that the material performs a genuine function in the product or use. In other words, the user must be able to demonstrate a legitimate reason for using CCR in the product other than the fact that it is an alternative to disposal of the material. For example, CCR provides a functional benefit when used as a replacement for cement in concrete because the CCR increases the durability of the concrete and is also more effective against degradation from salt water. 80 FR 21349.

The second beneficial use criterion, which states that CCR must substitute for the use of a virgin material, conserving natural resources that would otherwise need to be obtained through practices, such as extraction, is intended to demonstrate the use is truly “beneficial” from an environmental perspective. 80 FR 21349. CCR can be substituted for many virgin materials that would otherwise have to be mined and processed for use. These virgin materials include limestone to make cement, and Portland cement to make concrete; mined gypsum to make wallboard, and aggregate, such as stone and gravel for uses in concrete and roadbed. It is beneficial to use secondary materials that would otherwise be disposed of, rather than to mine and process virgin materials, simultaneously reducing waste and environmental footprints. 80 FR 21329.

The third criterion, that the use of CCR must meet relevant product specifications, regulatory standards, or design standards, when available, and where such specifications or standards have not been established, CCR may not be used in excess quantities, was

intended to address both the legitimacy of the use and the potential environmental and human health consequences associated with the use of excess quantities of CCR, particularly unencapsulated CCR. 80 FR 21349–21350. The 2015 CCR final rule notes that this criterion can include a demonstration that relevant engineering specifications are met, such as the ASTM C 593 test for compaction, the ASTM D 560 freezing and thawing test, a seven-day compressive strength above 2760 kPa (400 psi), and ASTM Standard E2277–03,⁴³ which provides standard guidance and a methodology for using CCR in a structural fill. 80 FR 21350.

Design standards are particularly important in the case of placement of large quantities of unencapsulated CCR in a single concentrated location, which the 2015 CCR Rule identified as the use most likely to resemble disposal, and that the current fourth criterion in the beneficial use definition was designed to address.⁴⁴ ASTM Standard E2277, which outlines procedures for the design and construction of engineered structural fills using CCR, is particularly relevant for these cases. In defining beneficial use, the latest version of this standard states that one beneficial use defining factor is that CCR is used in a manner that protects human health and the environment, which directly speaks to the issue of disposal. The standard then goes on to discuss several environmental considerations; CCR engineering properties and behavior; CCR physical and engineering characteristics; design factors, such as site characterization and preparation, structural performance and compaction; and construction considerations, such as dust and erosion control and CCR placement.

All these provisions help ensure that unencapsulated CCR used as fill does not meet the statutory definition of disposal, *i.e.*, the standards prevent the CCR and any constituent thereof from entering the environment or being emitted to the air or discharged into any waters, including groundwater. RCRA section 1004(3). The standard also guides users to determine all applicable local or state guidance, policies or regulations. Moreover, in addressing the need for chemical characterization, it guides users to recognize that states may require specific testing, such as to determine total composition or leachability of specific metals or other

⁴³ The current version of the standard is ASTM Standard E2277–14, titled “Standard Guide for Design and Construction of Coal Ash Structural Fills,” reapproved in 2019.

⁴⁴ 80 FR 21351.

⁴² See 84 FR 40353, August 14, 2019.

elements in CCR. This standard, therefore, defines technical procedures, includes an environmental scope, and emphasizes users' responsibility to also ensure compliance with jurisdictional requirements. In this way, product design and engineering standards ensure that the use is beneficial and not disposal and play a role in reducing the potential for environmental and human health consequences in general. EPA is asking for comment on whether to incorporate the ASTM E2277 standard by reference in the regulations.

Other types of non-roadway unencapsulated CCR uses include flowable fill; soil modification and stabilization; waste stabilization and solidification; aggregate; snow and ice control; and blasting grit. As noted in the 2015 CCR Rule, these additional unencapsulated uses, in contrast to structural fill, are not generally expected to be used in amounts requiring an environmental demonstration under the current fourth criterion in the beneficial use definition. Moreover, the use of CCR in these applications is generally not similar to the mounding that occurs in landfill situations, and several of these applications are structurally very different from landfills. 80 FR 21353. Like in the case of CCR structural fill, a number of standards are applicable to these uses.⁴⁵ EPA requests comment on whether additional standards or guidance for applying the third criterion to these non-fill unencapsulated uses would be useful.

b. Proposal To Eliminate the Fourth Beneficial Use Criterion

The fourth criterion in the definition of beneficial use at § 257.53 was intended to specially address the question of whether the placement of unencapsulated CCR on the land in non-roadway applications is appropriately considered to be "beneficial use" or "disposal", even when the first three criteria are met, and if so, whether that "disposal" warrants regulation. By focusing on non-roadway unencapsulated uses, the fourth criterion applies to uses that EPA identified in the 2015 CCR Rule as most likely to resemble disposal, *i.e.*, the placement of large quantities of CCR in a single concentrated location. However, in preamble to the 2015 CCR Rule, EPA also agreed with commenters that, "if constructed correctly, large scale fill operations can meet all of the criteria for a beneficial use." 80 FR 21351.

This criterion can be used to identify when those types of fill operations that most resemble disposal are genuine beneficial use by imposing a regulatory requirement that the CCR user conduct an environmental demonstration that the CCR use does not result in environmental releases that are (1) Higher than those from analogous products made without CCR, or (2) Pose risk to human health and the environment, when that use involves unencapsulated CCR non-roadway uses on the land over 12,400 tons. This demonstration requirement applies regardless of whether the CCR use involves a well-constructed fill operation, meeting all relevant product specifications, regulatory standards, or design standards, including the ASTM standard E2277 for structural fill.

While EPA did not intend for the 12,400 ton threshold to be a bright line between beneficial use and disposal, based on comments from industry this appears to be how it has frequently operated.⁴⁶ Complicating the situation is the fact that the 12,400 ton threshold was found to be based on data that were calculated with the wrong unit conversion factor (assuming the original data were reported in cubic feet rather than cubic yards). Much of the effort to "fix" the fourth criterion focused on identifying a more defensible basis for a threshold that would trigger an environmental demonstration, eventually resulting in the 2019 CCR proposal to set the threshold through location-based criteria. However, as discussed in Unit III.E. of this preamble, commenters raised substantive issues with this proposed approach, as well as with the alternative approaches that the Agency requested comment on. In addition, EPA's request for more information via the 2020 NODA did not indicate a clear path forward to establish an updated threshold.

After reviewing the comments on the 2019 CCR proposal and 2020 CCR NODA, EPA has reached the conclusion that the operational flaw in the fourth criterion is not the specific threshold that sets the conditions for requiring an environmental demonstration, but rather the environmental demonstration requirement itself. EPA finds that the

environmental demonstration requirement in the fourth criterion, as currently written, poses an unacceptable barrier to beneficial use.

EPA proposes to conclude, as several commenters on the 2019 CCR proposal and 2020 CCR NODA posited, that the first three criteria are sufficient in defining beneficial use and not disposal.⁴⁷ In considering these comments, EPA has analyzed damage incidents involving use of unencapsulated CCR as structural fill, and has not found evidence that CCR use as structural fill that meets the first three beneficial use criteria presents a reasonable probability of adverse effects on health or the environment.⁴⁸ Most of the incidents involve deposits of CCR in sand and gravel pits and quarries, which were explicitly defined as CCR landfills under the 2015 CCR rule, or sites that involve both CCR disposal and use as fill. The remaining seven cases do not clearly indicate compliance with the first three beneficial use criteria. When considering these incidents in the context of the past two decades of CCR beneficial use as engineered fill, involving millions of tons of CCR,⁴⁹ as well as the most recent ASTM standards for CCR in structural fill discussed earlier, EPA finds that these criteria adequately address the conditions that constitute disposal, and therefore EPA is proposing to delete the fourth criterion.

c. Applicability of the Revised Beneficial Use Definition

EPA notes that the revised definition of beneficial use would not apply retroactively. The revised definition, when also considered in conjunction with EPA proposal to eliminate the definition of CCR pile (as discussed below), would apply to all future CCR beneficial use projects that occur after the effective date, whether conducted onsite at the generating utility or offsite.

⁴⁷ See, *e.g.*, comments from the Cross-Cutting Issues Group (CCIG) (EPA-HQ-OLEM-2018-0524-0165), National Mining Association (NMA) (EPA-HQ-OLEM-2018-0524-0161), American Coal Council (EPA-HQ-OLEM-2020-0463-0029), Utility Solid Waste Activities Group (USWAG) (EPA-HQ-OLEM-2020-0463-0032) and EPA-HQ-OLEM-2018-0524-0064; Oglethorpe Power Corporation (EPA-HQ-OLEM-2018-0524-0176); Berkshire Hathaway Energy Co. (EPA-HQ-OLEM-2018-0524-0146), Aurora Energy, LLC (EPA-HQ-OLEM-2018-0524-0175); and American Coal Ash Association (ACAA) EPA-HQ-OLEM-2020-0463-0027.

⁴⁸ EPA 2025 *Summary of Damage Incidents Associated with CCR Used as Structural Fill*, available in the docket.

⁴⁹ Based on data reported annually by the American Coal Ash Association, over the past 24 years, the total amount of CCR that has been used as structural fill and embankments is more than 85,000,000 tons (ACAA CCP Survey Results, 2000 to 2023).

⁴⁵ See *Laboratory Testing and Other Relevant Standards and Guides for CCR Uses*, available in the docket.

⁴⁶ For example, the cement industry has commented on the current beneficial use definition saying that "[t]his narrowly tailored definition and the 12,400-ton threshold exemption from treatment as disposal were key elements of the rule for cement manufacturers, as it allowed plants to inventory minimum quantities of CCPs for use as raw materials in clinker manufacturing, cement, and blended cements." Comment submitted by the Portland Cement Association on the 2020 NODA, February 22, 2021. EPA-HQ-OLEM-2020-0463-0035 (emphasis added).

This ensures consistency and clarity across all settings.

d. Interaction With State Beneficial Use Programs

i. Importance of the Role State Programs Play in Regulating Beneficial Use Under State Law

States have historically implemented programs related to beneficial use of industrial, non-hazardous secondary materials under their state laws, and EPA has been recommending entities consult with state environmental agencies to ascertain that the state considers their proposed application a beneficial use. As discussed earlier, EPA excluded beneficial use of CCR from federal regulation under its May 2000 regulatory determination, acknowledging that states bear the primary responsibility for CCR beneficial use programs under their existing state authorities. Surveys of state beneficial use programs conducted by the ASTSWMO have found that states use a variety of formal and informal decision-making processes or programs to make beneficial use determinations, and many state programs specifically address the use of CCR in such applications as cement manufacturing, concrete, construction projects, landfill cover, and structural fill.^{50 51 52} State decision-making authorities come from statutes, regulations, policy memoranda and guidelines, and some states also use agency discretion to review requests and decide whether uses are approvable. Different segments of states' environmental agencies can make these decisions, either alone, or in collaboration with other state agencies, such as health, agriculture or transportation. Decisions can come in the form of permits, written authorizations, beneficial use determinations, or other methods stipulated in the state regulations or statutes.

The various approaches that states have adopted under state law to determine when a use of a material is beneficial or is disposal under state laws have allowed states to consider important regional issues and interests, and the specific geographic, geologic,

hydrologic and climatic conditions at proposed sites. The importance of state flexibility in making these determinations is reflected in the official position of the ASTSWMO Board of Directors, which states "ASTSWMO prefers beneficial use guidance to a regulatory approach. States need flexibility to implement procedures that work within their existing regulatory framework and for making site-specific technical decisions. ASTSWMO agrees that a proposed use of large quantities of CCR without a proven functional benefit should be thoroughly investigated, due to risks of environmental harm, and should not be necessarily viewed as a beneficial use. However, a "one-size-fits-all" regulatory approach is not practical or effective."⁵³

As noted in the 2015 CCR Rule, under the current regulations, EPA expects potential non-roadway users of unencapsulated CCR below the 12,400-ton threshold to work with the states to determine the potential risks of the proposed use at the site and to adopt the appropriate controls necessary to address the risks. 80 FR 21353 With the proposed elimination of the 12,400-ton threshold, EPA would likewise expect all CCR users of unencapsulated CCR to continue to work with their state to ensure that the use is considered beneficial under the state requirements. EPA requests comment on whether the definition of beneficial use should include a requirement in the regulations to document state approval of the beneficial use under the state law.

ii. EPA Technical Assistance on Beneficial Use Determinations

Over the years, EPA has issued a number of documents to provide states technical assistance on making beneficial use determinations, including the type of site-specific technical decisions that may apply to certain CCR beneficial uses, including a Beneficial Use Methodology, Beneficial Use Compendium, national-level beneficial use evaluations, updates to Industrial Waste Management Evaluation Model, and the development of Leaching Environmental Assessment Framework (LEAF) Test Method.⁵⁴ EPA requests

comment on whether and what sort of additional guidance documents would be helpful to states making CCR beneficial use decisions under their state authority.

2. Revisions Related to CCR Accumulations

a. Overview of Proposed Changes Related to CCR Accumulations

EPA is proposing new definitions of "CCR storage pile" and "temporary accumulation" to establish a single set of requirements applicable to all temporary placement of unencapsulated CCR on the land, whether managed onsite or off-site, and whether destined for beneficial use or disposal. Rather than characterizing such placements as either disposal or beneficial use, EPA considers that these activities are better characterized as "storage," with criteria established pursuant to the authority in RCRA section 1008(a)(3) to control releases. These proposed standards are similar to the definitions that EPA proposed in the 2019 CCR rule, with some adjustments to make the requirements clearer and less burdensome.

As discussed in the 2019 CCR proposal, under the current regulations, CCR piles are defined as any "non-containerized accumulation of solid, non-flowing CCR that is placed on the land. CCR that is beneficially used off-site is not a CCR pile." See § 257.53. The first part of this definition mirrors the RCRA definition of disposal, which is defined in part as the "placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters." See 42 U.S.C. 6903(3). Thus, CCR piles are considered disposal units and therefore are currently included in the definition of CCR landfill. See § 257.53.

CCR accumulations that are containerized (*i.e.*, that are subject to measures that the facility has taken to control releases), are not considered "CCR piles" under the current regulations, even if they otherwise meet the conventional description of a "pile" (*i.e.*, an accumulation or mound of CCR). Examples of containerization measures include placement of CCR on an impervious base such as asphalt, concrete or geomembrane; leachate and run off collection; and walls or wind barriers.

www.epa.gov/coal-combustion-residuals/coal-combustion-residuals-reuse.

⁵⁰ ASTSWMO (2007). *2006 Beneficial Use Survey Report*. Association of State and Territorial Solid Waste Management Officials, November 2007.

⁵¹ ASTSWMO (2012). *Beneficial Use of Coal Combustion Residuals Survey Report*. Association of State and Territorial Solid Waste Management Officials, September 2012.

⁵² ASTSWMO (2021). *Beneficial Use of Fill-Like Materials Survey Report*, Association of State and Territorial Solid Waste Management Officials, February 2021.

⁵³ ASTSWMO. (2023). 2023 ASTSWMO statement on coal combustion residuals program implementation. Retrieved from <https://astswmo.org/2023-astswmo-statement-on-coal-combustion-residuals-program-implementation/>.

⁵⁴ These tools and other technical assistance documents that address barriers to the beneficial use of non-hazardous secondary materials, including CCR, which can be found at <https://www.epa.gov/smm/sustainable-management-industrial-non-hazardous-secondary-materials#04> and on the Agency's CCR Reuse web page at <https://www.epa.gov/coal-combustion-residuals/coal-combustion-residuals-reuse>.

In addition, off-site non-containerized accumulations of CCR that meet the definition of beneficial use are also not considered “CCR piles”, while onsite non-containerized accumulations of CCR (at an electric utility or independent power producer site) are CCR piles, even if they would otherwise meet the definition of beneficial use. See § 257.53 (definition of CCR pile); 80 FR 21356 (April 17, 2015). This regulation of onsite CCR accumulations as CCR piles applies to all onsite non-containerized CCR accumulations, including CCR that has been used as structural fill onsite. As stated in the Legacy Final Rule, “under the existing regulations, the direct placement of CCR on the land on site of a utility, with nothing to control releases is, by definition, a CCR pile and therefore not beneficial use. The examples of historical [CCRMU] discussed in the proposal, structural fill and CCR placed below currently regulated CCR units onsite of a utility also clearly fit that definition.” 89 FR 39050.

Thus, in summary, under current regulations, the following CCR accumulations on the land are CCR piles and therefore regulated as CCR landfills: any non-containerized CCR accumulation onsite at an electric utility and any non-containerized CCR accumulation off-site that does not meet the definition of beneficial use.

This regulatory approach has been the source of confusion, and stakeholders have also raised concerns over the inconsistency of this approach. In the 2019 CCR proposal, EPA proposed a definition of “CCR storage pile” in order to establish a single set of requirements applicable to all temporary placement of unencapsulated CCR on the land, whether managed onsite or off-site, and whether destined for beneficial use or disposal, to ensure that such accumulations are designed and managed to control releases of CCR to the environment. Rather than characterizing such activities as either disposal or beneficial use, EPA proposed that these activities are better characterized as “storage,” with criteria established pursuant to the authority in section 1008(a)(3) to control releases. In addition, as discussed earlier, EPA is proposing to apply the definition of “beneficial use” equally to onsite and off-site beneficial uses.

After considering the public comments on the 2019 CCR proposal, EPA is proposing several revisions to § 257.53 and conforming changes in § 257.2 to address the management of temporary CCR accumulations. Specifically, EPA is proposing to define a CCR storage pile as “any temporary

accumulation of solid, non-flowing CCR placed on the land that is designed and managed to control unpermitted releases of CCR to the environment.” In addition, EPA is proposing to define “temporary accumulation” to mean “an accumulation on the land that is neither permanent nor indefinite. To demonstrate that the accumulation on the land is temporary, the CCR must be removed from the pile at the site. The entity engaged in the activity may use ordinary business records to document that the CCR in the pile will be removed according to a specific timeline.”

The requirement to control unpermitted releases in the definition of CCR storage pile is intended to be consistent with the definition of disposal in 42 U.S.C. 6903(3). As stated in that definition, disposal includes the “placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.” When significant and persistent volumes of unencapsulated CCR are present, similarities exist in the potential risks posed to human health, groundwater resources, or the air between the placement of CCR in piles and placement in CCR landfills, if inappropriately managed. See 80 FR 21356.

Examples of measures that might be used to control releases from a CCR storage pile include: periodic wetting, application of surfactants, tarps or wind barriers to suppress dust; tarps or berms for preventing contact with precipitation and controlling run-on/runoff; and impervious storage pads, geomembrane liners or tarps for soil and groundwater protection. EPA is not proposing to impose a specific set of control measures, as the amount of CCR stored, the location of storage, and the prevailing weather conditions may affect which controls are appropriate. Therefore, EPA intends to provide the entities engaged in the activity with flexibility to determine the control measures most appropriate to meet the requirement to control releases at a given site. This flexibility also ensures that EPA’s requirements do not contradict any state or local requirements for the use of prescribed controls.

In addition, limiting the definition of CCR storage pile to temporary accumulations prevents the CCR being stored in lieu of disposal, and also effectively limits the amount of unencapsulated CCR that will be placed and persist in one location. Due to these

factors, EPA considers that it is not necessary to impose on CCR storage piles the same set of technical requirements as for CCR landfills, and that meeting the requirement to control releases of CCR in the definition of a CCR storage pile, combined with meeting the definition of temporary accumulation, adequately addresses the conditions that would otherwise constitute disposal of CCR, either onsite or off-site.

EPA is also proposing a conforming change to the definition of a CCR landfill to remove “CCR pile” from the list of units considered to be a landfill and instead include “accumulations of CCR on the land that do not meet the definition of a CCR storage pile” in the definition of CCR landfill. This proposed change would apply to the definition of CCR landfill in §§ 257.2 and 257.53. In addition, EPA is proposing a technical correction to the definition of CCR landfill in § 257.2 so that definition conforms to the definition of CCR landfill in § 257.53, including changes related to the January 16, 2025 CCR direct final rule and companion proposed rule. See 90 FR 4639.

b. Proposed Changes as Compared to the 2019 CCR Proposal and Requests for Comment

While the changes proposed in this rule are similar to those proposed in the 2019 CCR rule, EPA has made some adjustments to make the requirements more clear and less burdensome. These adjustments include: (1) Removing the definition of “CCR pile” and the designation of “CCR pile” from the definition of landfill, (2) Not including designation of “enclosed structure” in the regulation of CCR, (3) Not listing the specific examples of control measures for CCR storage piles in the regulations, and (4) Clarifying in the definition of “temporary accumulation” that ordinary business records are sufficient for documenting that the CCR has been completely removed from the pile.

EPA is proposing to remove the definition of “CCR pile” and the designation of “CCR pile” from the definition of landfill because of the possible confusion between “CCR pile” and “CCR storage pile”, and the redundancy of the “CCR pile” definition with the proposed revision to the definition of CCR landfill, which proposes to add “any accumulation of CCR on the land that does not meet the definition of a CCR storage pile”. This added language to the landfill definition covers any unit that would be considered a “CCR pile” under the current regulations, and therefore it is

no longer necessary to have a separate term for this type of accumulation.

EPA is also making adjustments to the definitions of “CCR storage pile” and “temporary accumulation” that were originally proposed in 2019 to increase the flexibility of these requirements and remove unnecessary burdens. The definition of CCR storage pile is proposed to require the unit is designed to control unpermitted releases of CCR in order to account for the fact that such units are often subject to permitting requirements that directly affect the management of CCR. In addition, EPA is proposing to not include the specific examples of controlling releases from CCR piles that were proposed to be included in the definition in 2019, namely periodic wetting, application of surfactants, tarps or wind barriers to suppress dust; tarps or berms for preventing contact with precipitation and controlling run-on/runoff; and impervious storage pads or geomembrane liners for soil and groundwater protection. While all these practices remain valid examples of controlling unpermitted releases, including them in the regulatory language gave some commenters the false impression that EPA intended these specific controls were always required, when in some circumstances they may not be. As noted earlier, EPA intends to provide the entities engaged in the activity with flexibility to determine the control measures most appropriate to meet the requirement to control releases at a given site.

Similarly, EPA is not proposing the definition of “enclosed structure” and its designation as a management unit that would not be a CCR storage pile because this definition caused some commenters to conclude that management in an enclosed structure would be a requirement of the rule. While enclosed structures would continue to be one method to ensure that unpermitted releases are controlled, such a structure is not required and including it in the regulation is unnecessary and potentially confusing.

Finally, EPA is proposing to remove language from the 2019 CCR Proposal definition of “temporary accumulation” that stated the “entity engaged in the activity must have a record in place, such as a contract, purchase order, facility operation and maintenance, or fugitive dust control plan” and instead has clarified that the entity “may use ordinary business records to demonstrate that the CCR in the pile will be removed according to a specific timeline.” The specific types of business records would depend on the beneficial use and the pile location, but some

examples may include sales and transportation contracts, invoices and sales receipts, inventory logs, or shipment records demonstrating that the CCR storage pile will be removed within a specific timeline.

EPA requests comments on the adjustments to the 2019 CCR Proposal language, as well as on the option to keep the current structure of regulating non-containerized CCR piles that do not meet the definition of beneficial use as disposal units and simply removing the distinction between onsite and off-site piles.

EPA is also requesting comment on the types of business records that would best demonstrate that a CCR storage pile is “temporary” and whether a pile custodian could demonstrate that the pile will be removed according to a specific timeline by issuing a certification. For example, in cases where pile custodians are not able to provide business records to demonstrate that piles are temporary due to existence of proprietary business information, a custodian’s certification may be an appropriate alternative way to show that the CCR in the pile will be removed according to a specific timeline.

EPA is also requesting comment on adding a provision within the proposed definition of a temporary accumulation to allow CCR to be removed from CCR storage piles on a rolling basis. This provision would expand the proposed definition to cover cases in which storage piles are supporting established, ongoing operations, and not just the piles for which removal of a final amount of CCR is expected within a specific timeframe. The purpose of the provision would be to enable facilities to continue their operation while also ensuring that the CCR is continuously getting beneficially used or transferred for disposal, in lieu of being stored indefinitely in lieu of disposal. The provision would be similar to how the speculative accumulation requirements that apply to hazardous secondary materials that are destined for recycling work. See § 261.1(c)(8). Specifically, entities would demonstrate that their CCR is not being stored in lieu of disposal by removing at least 75% of the material from the storage pile each calendar year. The proximity of the pile to established, ongoing operation could help demonstrate that the provision is appropriate for the operation. In addition, EPA is requesting comment on whether to establish a provision that would authorize a one-time pile that would not be subject to speculative accumulation limits, provided that all CCR was removed within a specific time, *e.g.*, 9 months. For example, such

a provision could potentially apply to one-time, short-term piles primarily set up to meet construction demands where a timeframe of 9 months, which covers the entirety of the construction season, is sufficiently long for CCR to be removed.

3. Exclusions for Specific Beneficial Uses

a. Exclusion for CCR Used in Cement Manufacturing at Cement Kilns

EPA is proposing to add a provision at § 257.50(k) to exclude CCR at cement kilns that is destined for use as an ingredient in cement manufacturing from the requirements of 40 CFR part 257. This proposed categorical determination recognizes the benefit CCR provides as an ingredient in cement manufacturing, and how this benefit incentivizes its management as a valuable commodity at the cement kiln and helps ensure it will be appropriately incorporated in an encapsulated beneficial use. This proposed change would remove regulatory uncertainty for both the cement kilns and the regulatory authorities, simplify implementation, and reduce burden. EPA is also requesting comment on whether it would be helpful to include a regulatory clarification explaining that the current industry management practices for CCR fly ash that is used directly in concrete production as a substitute for Portland cement are not subject to the 40 CFR part 257 CCR requirements.

An encapsulated beneficial use is one that binds the CCR into a solid matrix that minimizes mobilization into the surrounding environment, such as the addition of CCR in cement manufacturing at cement kilns and incorporation in concrete. In general, encapsulated uses of CCR must comply with the first three criteria in the definition of beneficial use found at § 257.53: (1) The CCR used must provide a functional benefit, (2) The CCR must substitute for the use of a virgin material, conserving natural resources that would otherwise need to be obtained through practices such as extraction, and (3) The use of CCR must meet relevant product specifications, regulatory standards, or design standards when available, and when such standards are not available, CCR are not used in excess quantities.

EPA has determined that CCR used as an ingredient in cement manufacturing satisfies these three criteria. CCR used in cement manufacturing provides a functional benefit in that it increases the durability of concrete and is more effective in combating degradation from

salt water. CCR is also directly used as a substitute for virgin materials, such as silica, iron, clay, shale, and bauxite in kiln feed, gypsum in finished portland cement, and clinker in blended cement products, reducing the need for mining, processing, and transport of virgin materials and the further disturbance of the environment. Lastly, when CCR is used as a commercial product, the amount of CCR used is controlled by meeting careful product specifications.

Several decades of record support that the current beneficial use of CCR as a replacement for industrial raw materials (e.g., Portland cement, virgin stone aggregate, lime, gypsum) provides substantial annual life cycle environmental benefits for these industrial applications. Cement is a critical ingredient in the production of concrete, and cement and concrete manufacturing has proven to be among the highest value encapsulated use of CCR, providing economic and environmental benefits. Cement kilns have shown to treat CCR as a high-value feedstock, the same as other raw materials, as it is carefully inventoried and stored at onsite facilities as valuable commodities in accordance with the applicable standards, practices, and conditions in a manner analogous to natural raw materials or other industrial byproducts used as raw materials.⁵⁵ In 2020, EPA estimated that the environmental and human benefit of using one ton of CCR in lieu of virgin materials in the production of portland cement is \$69.90 compared to using one ton of virgin fill materials at \$2.28. This puts cement manufacturing among the highest value encapsulated uses of CCR, providing economic and environmental benefits far greater than those provided by other uses, and offering further economic incentive for it to be treated as a valuable commodity. Cement manufacturing also uses a tightly controlled and precise chemical combination in its complex systems process where extensive and carefully calibrated environmental controls are used. Cement kilns will require or conduct laboratory testing to ensure that supplied CCR meet the applicable specifications for use in cement or it is rejected.⁵⁶ Cement kilns will also retain safety data sheets (SDSs) for CCR materials procured for use in the cement manufacturing process, including fly

ash, bottom ash, and synthetic gypsum, to ensure the health and safety of its employees and visitors.⁵⁷

In 2014, EPA evaluated the risks and benefits of using CCR in cement and concrete and based on the findings of the evaluation, concluded that environmental releases of constituents of potential concern during use by the consumer are comparable to or lower than those from analogous non-CCR products or are at or below relevant regulatory and health-based benchmarks for human and ecological receptors.⁵⁸ Furthermore, the cement industry already complies with stringent air and water permitting requirements to control releases from CCR stored in piles at cement kilns before its use in cement manufacturing. Cement kilns must comply with dust suppression measures under their Title V Permits by which they are subject to visible emissions limits for all CCR storage piles and requirements to control and minimize fugitive dust. They also must comply with stormwater control requirements under National Pollutant Discharge Elimination System (NPDES) Permits to mitigate environmental impacts of CCR storage and all other material stored in piles.⁵⁹ EPA requests comment on the exclusion of CCR beneficially used at cement kilns from regulation.

Fly Ash Used in Concrete

EPA is also requesting comment on whether it would be helpful to include a regulatory clarification explaining that CCR fly ash that is used directly in concrete production as a substitute for Portland cement is not subject to the CCR requirements of 40 CFR part 257.

As a practical matter, it is EPA's understanding that the current handling of fly ash is already not subject to part 257 CCR requirements because fly ash that is substituting for Portland cement is not placed on the land before being incorporated into concrete. As explained in the 2019 CCR proposal, fly ash marketed for beneficial use in concrete production is consistent across the industry; fly ash is collected in a dry powder form, stored in silos, domes, or buildings and transferred pneumatically

via truck or rail transportation in a self-contained system from start to end. The reason for the containment is that fly ash provides mechanical and chemical benefits when used in concrete, making it a valuable ingredient and fully warranting the protection of its properties through handling and storage. 84 FR 40363–44. In addition, the incorporation of fly ash in concrete is a well-established beneficial use, and EPA has concluded that environmental releases of constituents of potential concern during use by the consumer are comparable to or lower than those from analogous non-CCR products or are at or below relevant regulatory and health-based benchmarks for human and ecological receptors.⁶⁰ Thus, current practices for managing the fly ash for use in concrete production are already functionally not subject to part 257 CCR requirements and a categorical exclusion in the regulations is not strictly necessary.

However, given that EPA is proposing categorical exclusions for other high-value beneficial uses, the Agency does not want to introduce any confusion regarding the regulatory status of CCR fly ash used in concrete production, and requests comment on whether a regulatory clarification to that effect would be helpful.

b. Exclusion for FGD Gypsum Beneficially Used in Agriculture

EPA is also proposing to add a provision at § 257.50(l) to exclude flue gas desulfurization (FGD) gypsum from the requirements of 40 CFR part 257 when destined to be applied as an agricultural amendment at agronomically appropriate rates. FGD gypsum is a type of CCR generated from the pollution control technologies designed to reduce sulfur gas emissions from electric utilities and is the largest source of synthetic gypsum in the United States. As with the exclusion for CCR beneficially used in cement kilns, this proposed change would also remove regulatory uncertainty for both the agricultural industry and the regulatory authorities, simplify implementation, and reduce burden for beneficially used FGD gypsum applied as an agricultural amendment at agronomically appropriate rates.

Under current regulations, FGD gypsum, when used for agricultural purposes, must comply with all four criteria in the beneficial use definition found at 40 CFR 257.53: (1) The CCR

⁵⁷ *Id.*

⁵⁸ EPA 2014. *Coal Combustion Residual Beneficial Use Evaluation: Fly Ash Concrete and FGD Gypsum Wallboard*. https://www.epa.gov/sites/default/files/2014-12/documents/ccr_bu_eval.pdf. February 2014.

⁵⁹ EPA–HQ–OLEM–2020–0463, Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Reconsideration of Beneficial Use Criteria and Piles; Notification of Data Availability. PCA Response to EPA Request for Supplemental Documentation. February 2021.

⁶⁰ EPA 2014. *Coal Combustion Residual Beneficial Use Evaluation: Fly Ash Concrete and FGD Gypsum Wallboard*. https://www.epa.gov/sites/default/files/2014-12/documents/ccr_bu_eval.pdf. February 2014.

⁵⁵ EPA–HQ–OLEM–2020–0463, Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Reconsideration of Beneficial Use Criteria and Piles; Notification of Data Availability. PCA Response to EPA Request for Supplemental Documentation. February 2021.

⁵⁶ *Id.*

used must provide a functional benefit, (2) The CCR must substitute for the use of a virgin material, conserving natural resources that would otherwise need to be obtained through practices such as extraction, (3) The use of CCR must meet relevant product specifications, regulatory standards, or design standards when available, and when such standards are not available, CCR are not used in excess quantities, and (4) For uses over 12,400 tons, must provide an environmental demonstration that environmental releases to groundwater, surface water, soil and air are comparable to or lower than those from analogous products made without FGD gypsum, or that environmental releases will be at or below relevant regulatory and health-based benchmarks for human and ecological receptors during use.⁶¹

For the first criterion, FGD gypsum acts in several beneficial ways in agricultural soil applications, such as nutrient amendments for calcium and sulfur deficiencies, soluble phosphorus and aluminum toxicity adverse effects reduction, the amelioration of sodic soils, and the supportive aggregation of clay soil, which improves water infiltration. The primary crops that benefit from the application of gypsum include peanuts, cotton, corn, wheat, and alfalfa.⁶² For the second criterion, FGD gypsum can substitute for mined gypsum, which is a mineral that occurs naturally in sedimentary rock formations, because both materials are composed primarily of calcium sulfate. EPA has previously concluded that many of the constituents in FGD gypsum are comparable to those in mined gypsum.⁶³ For the third criterion, under U.S. Department of Agriculture (USDA) standards, amendment provider has the responsibility to provide chemical analysis documentation of the FGD gypsum which must include the calcium and sulfur content and content of heavy metals, and all other potential contaminants, and concentrations of potential contaminants cannot exceed

maximum allowable concentrations.⁶⁴ The USDA stipulates that annual application rates should not exceed 5 tons/acre for the purposes defined in the Amending Soil Properties with Gypsum Products (Ac.) (333) Conservation Practice Standard.⁶⁵ Thus, when applied as an agricultural amendment at agronomically appropriate rates, FGD gypsum meets the first three beneficial use criteria.

In addition, in 2023 EPA conducted a beneficial use evaluation of FGD gypsum to demonstrate how an analytical framework can be used to evaluate the potential for adverse environmental impacts from a wide range of industrial materials and their proposed beneficial uses, specifically the use of FGD gypsum as an agricultural amendment.⁶⁶ Based on the results of this study, EPA concluded that all potential risks resulting from soil treated with FGD gypsum are likely to fall below level of concern under actual use scenarios, and determined the beneficial use of FGD gypsum can provide meaningful benefits to agricultural fields while remaining protective of human health and the environment.⁶⁷

EPA's proposed exemption from the requirements of 40 CFR part 257 also applies to the storage of FGD gypsum while waiting at agricultural retail facilities before being applied in agricultural fields. As discussed above, FGD gypsum is a valuable resource to farmers, and agricultural retailers have an incentive to manage it in a way that avoids unpermitted releases to the environment, ensuring that this resource will be used. FGD gypsum is stored at agricultural retail facilities typically for only a three- to four-month period during growing season in piles at around 10,000 tons.⁶⁸ Generally, FGD gypsum comes via truck from power plants in April, May, and June of each year. Once FGD gypsum arrives, it is placed on a compressed dirt area. It is then compressed in stacks using a front-end loader. When runoff occurs, it is

scooped back in and mixed with the existing material. A holding pond is used to capture gradually declining material. As needed, the pile is re-shaped and re-graded to maintain integrity. The pile is typically emptied by the end of June. Weight measures are used for inventory tracking, to accurately record how much FGD gypsum comes in and how much is sent out. The Agricultural Retailers Association (ARA) emphasizes the importance of controlling "shrinkage" of the FGD gypsum to minimize loss and indicates that these management practices are generalizable and applied everywhere.⁶⁹

The proposed exemption recognizes that the FGD gypsum as an agricultural amendment at agronomically appropriate rates is a well-established beneficial use practice that provides environmental benefits and raises minimal health or environmental concerns. This proposed exemption also incentivizes the continuation of management practices at agricultural retail facilities that prevent loss of the material and ensure it will in fact be incorporated as an agricultural amendment.

c. Exclusion for FGD Gypsum Beneficially Used in Wallboard

In addition, EPA is proposing an exclusion in § 257.50(l) for FGD gypsum that is destined for use as an ingredient in wallboard manufacturing. This proposed regulatory revision provides regulatory certainty by codifying EPA's current position on FGD gypsum managed as a valuable commodity and used in wallboard, as expressed in the preamble to the 2015 CCR rule and subsequent guidance.^{70 71} Several circumstances factor into this proposal. Firstly, the use of FGD gypsum as replacement for mined gypsum in wallboard, is significant at around 75% of all FGD gypsum being beneficially used.⁷² FGD gypsum serves exactly the same function in wallboard as mined gypsum and meets all commercial specifications. Its use decreases the need to mine natural gypsum, conserving the natural resource and energy that would otherwise be needed to mine natural gypsum. Thus, the use of FGD gypsum in place of mined

⁶¹ While EPA is proposing to remove the fourth criterion from the definition of beneficial use, the Agency is including in this discussion a reference to the fourth criterion both because it reflects the current regulations and because the specific beneficial use evaluation that was performed for the use of FGD gypsum in agriculture is relevant to this specific proposed exemption.

⁶² EPA-HQ-OLEM-2020-0463, Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Reconsideration of Beneficial Use Criteria and Piles; Notification of Data Availability. Agricultural Retailers Association Comment. October 2019.

⁶³ U.S. EPA, US Department of Agriculture, RTI International. Beneficial Use Evaluation: Flue Gas Desulfurization Gypsum as an Agricultural Amendment. March 2023.

⁶⁴ USDA. Conservation Practice Standard Amending Soil Properties with Gypsum Products. June 2015.

⁶⁵ *Id.*

⁶⁶ U.S. EPA, US Department of Agriculture, RTI International. Beneficial Use Evaluation: Flue Gas Desulfurization Gypsum as an Agricultural Amendment. March 2023.

⁶⁷ *Id.* While the study identifies some limited potential for risk from release of selenium to surface water when FGD gypsum is applied across every available field at the highest rates and frequencies, even in this extreme and unlikely scenario, identified risks can be mitigated through minor limits on application practices.

⁶⁸ USDA. Conservation Practice Standard Amending Soil Properties with Gypsum Products. June 2015.

⁶⁹ EPA meeting with Agricultural Retailers Association, held on May 27, 2020. EPA-HQ-OLEM-2020-0463-0003.

⁷⁰ 80 FR 21348.

⁷¹ <https://www.epa.gov/coal-combustion-residuals/frequent-questions-about-beneficial-use-coal-combustion-residuals#t2q5>.

⁷² ACAA 2023 CCR Survey Results, <https://aca-usa.org/wp-content/uploads/2025/05/2023-Production-and-Use-Survey-Results-FINAL.pdf>.

gypsum can offer significant environmental benefits.

Secondly, EPA evaluated this use in 2014, and, based on FGD gypsum wallboard that meets relevant physical and performance standards, conforms to standard design specifications, and incorporates FGD gypsum from pollution control devices used in the United States, concluded that FGD gypsum wallboard is an appropriate beneficial use.⁷³

Finally, synthetic gypsum is a product of the FGD process at coal-fired power plants. The utility designs and operates its air pollution control devices to produce an optimal product, including the oxidation of the FGD to produce synthetic gypsum. After its production, the utility treats FGD gypsum as a valuable input into a production process, protecting the inventory so the material can in fact be incorporated into wallboard. Moreover, wallboard plants are frequently sited in close proximity to power plants for access to raw material, with a considerable investment involved. Thus, the proposed codification recognizes that the FGD gypsum use as an ingredient in the manufacture of wallboard is a well-established and widely accepted practice that provides environmental benefits while raising minimal health or environmental concerns. The proposed codification incentivizes the continuation of management practices for FGD gypsum that prevent loss of the material and ensure it will in fact be incorporated into wallboard.

D. Federal CCR Permitting Rule—Reopening the Comment Period

On February 20, 2020, EPA proposed a rule (85 FR 9940) entitled *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Federal CCR Permit Program* (Federal CCR permit program proposed rule), that would establish a Federal CCR permit program that will operate in Indian country and in nonparticipating States. The proposal describes how EPA will implement a Federal CCR permit program in accordance with the requirements of the WIIN Act, and includes the requirements and procedures EPA intends to use to issue Federal permits for disposal and associated solid waste management of CCR in 40 CFR part 257, subpart E. The public comment period for the proposed Federal CCR permit

rule ran from February 20, 2020, through August 7, 2020.

Given that it has been over five years since the proposal was published, EPA intends to reopen the comment period on the Federal CCR permit program proposed rule in a subsequent notice to provide the public with another 30 days to comment on the proposal. To effectuate this, EPA will publish a separate document in the **Federal Register** announcing that the comment period has been reopened and that comments need to be submitted to Docket ID No. EPA-HQ-OLEM-2019-0361.⁷⁴

V. The Projected Economic Impact of This Action

A. Introduction

EPA estimated the costs and benefits of this action in a Regulatory Impact Analysis (RIA), which is available in the docket for this action.

B. Affected Universe

The universe of units and facilities affected by this action includes four categories. The first is comprised of CCR landfills and surface impoundments at facilities actively producing power and placing CCR into onsite units on or after October 19, 2015. These units were first regulated under the 2015 CCR Final Rule. The RIA identifies 783 units at 303 facilities. The second category consists of CCR surface impoundments at facilities that stopped producing power and placing CCR into onsite units on or before October 19, 2015. These units were first regulated under the 2024 Legacy Final Rule. The RIA identifies 97 surface impoundments at 49 facilities. The third category consists of CCRMU at regulated facilities. These units were first regulated under the 2024 Legacy Final Rule. The RIA identifies 195 CCRMU at 104 facilities. The fourth category consists of businesses who purchase and store CCR and other byproducts of coal combustion onsite as inputs for industrial purposes (*i.e.*, for beneficial use). Beneficial use of CCR was first defined under the 2015 CCR Final Rule. The RIA identifies a range of 816 to 1,256 businesses that use CCR as an industrial input.

Note that since many of the provisions of this action grant flexibilities to permitting authorities or apply based on site-specific characteristics or practices, the total number of CCR units and facilities

affected by each provision may differ from the totals listed in this section. The RIA estimates and details the number of facilities and units affected by each provision in Chapter 2.

C. Baseline Costs

The baseline costs of this rule consist of all costs associated with activities required to comply with the existing suite of CCR regulations. These regulations include the 2015 CCR Final Rule, the 2020 Part A Final Rule, and the 2024 Legacy Final Rule. The RIA also includes cost savings attributable to the 2025 CCRMU Deadline Extension Proposed Rule in the baseline. The difference between these baseline compliance costs and compliance costs under the provisions of this action are estimated and presented as cost savings in the RIA and summarized in the following section.

D. Costs and Benefits of the Proposed Rule

This proposed rule modifies the existing regulatory framework of the CCR program with four broad categories of changes that result in cost savings. The first set of changes broadens eligibility criteria for closure-by-removal certifications and deferrals for Legacy CCR SIs previously closed under state or federal oversight. The annualized cost savings associated with these changes are estimated to be approximately \$9–\$10 million per year when discounting at 3% and to be approximately \$15–\$17 million per year when discounting at 7%.

The second set of changes rescinds all CCRMU provisions from the 2024 Legacy Final Rule. The annualized cost savings associated with this change is estimated to be approximately \$86–\$100 million per year when discounting at 3% and approximately \$117–\$139 million per year when discounting at 7%.

The third set of changes allows state-authorized and federal permitting authorities to make certain site-specific determinations regarding groundwater monitoring points of compliance, groundwater protection standards, closure performance standards, closure timelines, and post-closure requirements. The annualized cost savings associated with these changes is estimated to be approximately \$74–\$78 million per year when discounting at 3% and approximately \$96–\$101 million per year when discounting at 7%.

The fourth set of changes amend the beneficial use regulations by removing demonstration requirements, changing definitions regarding accumulations of

⁷³ U.S. Environmental Protection Agency. 2014 Coal combustion residual beneficial use evaluation: Fly ash concrete and FGD gypsum wallboard. <https://www.epa.gov/coal-combustion-residuals/coal-combustion-residual-beneficial-use-evaluation-fly-ash-concrete-and>.

⁷⁴ To submit comments on the proposed Federal CCR permit program rule, search Docket ID No. EPA-HQ-OLEM-2019-0361, online at <https://www.regulations.gov>.

CCR, and exempting certain uses from regulatory requirements. The annualized cost savings associated with these changes is estimated to be approximately \$6 million per year when discounting at 3% and approximately \$6 million per year when discounting at 7%.

Overall, the proposed rule results in annualized cost savings of approximately \$174 to \$194 million per year when discounting at 3% and approximately \$232 to \$262 million per year when discounting at 7%.

The proposed rule modifies the existing regulatory framework of the CCR program with two broad categories of changes that result in impacts to the baseline benefits. The first set of changes eliminates or delays closure and corrective action requirements for specific units that are subject to regulation in the baseline. Specifically, the provision rescinding all requirements for CCRMU eliminates the closure and corrective action requirements for those units, while the provision allowing a permit authority to extend closure timeframes for CCR units where CCR is being extracted from the unit for beneficial use during closure delays closure for a subset of CCR units. These changes result in negative or dis-benefits when compared to the baseline. EPA has quantified these dis-benefits for three categories of benefits. These three categories are the avoided risk of CCR release events, the avoided impairment of human health, and avoided ecological harms. The annualized dis-benefits attributable to these provisions are approximately \$9 to \$21 million per year when discounting at 3% and approximately \$8 to \$18 million per year when discounting at 7%.

The second set of changes encourages the beneficial use of CCR by provide permitting flexibilities to encourage extraction of CCR during the closure of CCR units, and after closure of CCR units that close with waste in place. Extracted CCR can be beneficially used as an ingredient in, or substitute for, portland cement. CCR can also be beneficially used as a road base or construction fill, where it replaces virgin materials such as sand or gravel. The RIA estimates the positive annualized benefits associated with increased beneficial use of CCR at approximately \$4 to \$16 million per year when discounting at either 3% or 7%.

Overall, the proposed rule will result in annualized changes in benefits of approximately:

- A \$5 million decrease when discounting at 3%; and

- A \$4–\$2 million decrease when discounting at 7%.

Overall, the RIA estimates that the net annualized cost savings and benefits, net of disbenefits, of this action will be \$169–\$189 million per year when discounting at 3%, and \$229–\$260 million when discounting at 7%.

E. What analysis of children's health did we conduct?

This action is subject to the EPA's Policy on Children's Health because the proposal has considerations for human health. However, EPA does not believe there are disproportionate risks to children because the populations living near CCR disposal facilities do not contain a disproportionate number of children relative to national averages. Please see the RIA (Section 5.1.2 Human Health Risk Assessment for Chronic Exposure Pathways) in the docket.

VI. Statutory and Executive Order Reviews

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

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

This action is a significant regulatory action as defined under section 3(f)(1) of Executive Order 12866. Accordingly, it was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, "Regulatory Impact Analysis; Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy/CCRMU Amendments" is available in the docket, and is briefly summarized in Unit V. of this proposed rule.

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 streamlining and reducing regulatory requirements for owners and operators of CCR surface impoundments and CCRMUs.

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) documents that the EPA prepared have been assigned EPA ICR numbers 2609.04 (OMB control no. 2050–0223) and 2761.03 (OMB control no. 2050–0231). You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

ICR number 2609.04 is the base ICR for the CCR program and covers all information collection activities required for CCR disposal units regulated under the 2015 final rule. ICR number 2761.03 is a temporary ICR which EPA requested to cover the information collection activities required under the 2024 Legacy final rule. EPA requested this temporary ICR due to the concurrent timing of the Legacy rule's finalization and the renewal of the base ICR. EPA will submit a request to merge the Legacy rule ICR (2761.03) into the base ICR (2609.04) at a later date. The information collection requirements are not enforceable until OMB approves them.

ICR Number 2609.04

For ICR 2609.04 (OMB control no. 2050–0223), the prior ICR supporting statement had included sections on information collection related to beneficial use, even though that ICR estimated zero users would demonstrate and keep records of beneficial use. Regardless, ICR 2609.04 (OMB control no. 2050–0223) has been updated to remove the sections on beneficial use information collection which corresponds with the proposed requirements of this action.

Respondents/affected entities: Electric utility facilities and independent power producers that fall under the NAICS code 221112 (Fossil Fuel Electric Power Generation).

Respondent's obligation to respond: Mandatory under RCRA Subtitle D, 40 CFR part 257.

Estimated number of respondents: 300 coal-fired electric utility plants with 723 disposal units. There is no change in number of respondents resulting from the proposed rule.

Frequency of response: Includes one-time, annual, and incidental/recurring responses.

Total estimated burden: 173,083 hours (per year). There is no change in number of hours from the proposed rule.

Total estimated cost: \$26,168,233 (per year), comprised of \$10,656,807 in annual labor costs and \$15,511,426 in annual operation & maintenance costs. There is no change in the annual costs

per year resulting from the proposed rule.

ICR Number 2761.03

The changes made for ICR 2761.03 (OMB control no. 2050–0231) correspond with facilities no longer needing to complete the Facility Evaluation Report, required under 40 CFR 257.73(c) and (d).

Respondents/affected entities: Electric utility facilities and independent power producers that fall under the NAICS code 221112 (Fossil Fuel Electric Power Generation) and electric utilities and independent power producers that fall under the NAICS code 22111 (Electric Power Generation) whose facilities formerly burned coal to produce electricity and disposed of CCR onsite in legacy surface impoundments, CCRMU, and CCRMU at other active facilities.

Respondent's obligation to respond: Mandatory under RCRA Subtitle D, 40 CFR part 257.

Estimated number of respondents: 2,044 coal-fired electric utility. This is a reduction from the 2,083 respondents estimated in ICR 2761.03 based on a more recent accounting of the affected universe. There is no change in number of respondents resulting from the proposed rule.

Frequency of response: Includes one-time, annual, and incidental/recurring responses.

Total estimated burden: 211,717 hours (per year). There is a 55,406 reduction in hours resulting from the proposed rule.

Total estimated cost: \$29,401,324 (per year), comprised of \$12,610,186 in annual labor costs and \$16,791,138 in annual operation & maintenance costs. There is a \$3,489,105 reduction in costs, including \$3,136,867 in annual labor costs and \$352,238 in annual operation & maintenance costs resulting from the proposed rule.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. 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, any suggested methods for minimizing respondent burden, EPA's plan to merge the Legacy rule ICR (2761.03) into the base ICR (2609.04), and other aspects of these collections 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 information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. OMB must receive comments no later than May 13, 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 adverse economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This proposed rule is a deregulatory action and does not add any additional burden beyond the 2024 Legacy Final Rule, while relieving some burdens imposed by that rule, and potentially relieving some burdens imposed by the 2015 CCR Final Rule, leading to cost savings for small entities. Specific relief to small entities includes removal of CCRMU regulations, which affects up to seven small entities affected by the 2024 Legacy Final Rule. Other relief includes regulatory flexibilities that may apply to Legacy CCR surface impoundments, which may affect up to five small entities affected by the 2024 Legacy Final Rule, and regulatory flexibilities that may apply to units regulated under the 2015 CCR Final Rule. Additional information on the cost savings can be found in the Regulatory Impact Analysis, which is available in the docket, and is summarized in Unit V. of this proposed rule. 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 imposes no enforceable duty on any state, local or Tribal governments or the private sector. This action relieves regulatory burden.

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. This action does not impose new requirements on Tribal governments. Thus, Executive Order 13175 does not apply to this action.

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 explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. EPA does not believe there are disproportionate risks to children because the populations living near CCR disposal facilities do not contain a disproportionate number of children relative to national averages. However, EPA's *Policy on Children's Health* applies to this action. Information on how the Policy was applied is available under "What Analysis of Children's Environmental Health Did We Conduct?" in the Supplementary Information section of this preamble.

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. This is a deregulatory action.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

List of Subjects in 40 CFR Part 257

Environmental protection, Beneficial use, Coal combustion products, Coal combustion residuals, Coal combustion

waste, Disposal, Hazardous waste, Landfill, Surface impoundment.

Lee Zeldin,
Administrator.

For the reasons set out in the preamble, EPA proposes to amend 40 CFR part 257 as follows:

PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

■ 1. The authority citation for part 257 continues to read as follows:

Authority: 42 U.S.C. 6907(a)(3), 6912(a)(1), 6927, 6944, 6945(a) and (d); 33 U.S.C. 1345(d) and (e).

Subpart A—Classification of Solid Waste Disposal Facilities and Practices

■ 2. Amend § 257.2 by revising the definition “CCR landfill” to read as follows:

§ 257.2 Definitions.

* * * * *

CCR landfill means an area of land or an excavation that contains CCR and which is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. For purposes of this subpart, a CCR landfill also includes sand and gravel pits and quarries that receive CCR, any practice that does not meet the definition of a beneficial use of CCR, and any accumulation of CCR on the land that does not meet the definition of a CCR storage pile.

* * * * *

Subpart D—Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments

■ 3. Amend § 257.50 by adding paragraphs (j), (k), and (l) to read as follows:

§ 257.50 Scope and purpose.

* * * * *

(j) The requirements of this subpart do not apply to CCR dewatering structures as defined in § 257.53.

(k) This subpart does not apply to CCR at cement kilns before use as an ingredient in cement manufacturing.

(l) This subpart does not apply to flue gas desulfurization gypsum that is:

- (1) Destined to be applied as an agricultural amendment at agronomically appropriate rates, or
- (2) Destined for use as an ingredient in wallboard manufacturing.

■ 4. Amend § 257.53 by:

- a. Revising the definition “Beneficial use of CCR”;
- b. Adding in alphabetical order the definition “CCR dewatering structure”;
- c. Revising the definition “CCR landfill or landfill”;
- d. Removing the definition “CCR pile or pile”;
- e. Adding in alphabetical order the definition “CCR storage pile”;
- f. Revising the definition “CCR surface impoundment or impoundment”; and
- g. Adding in alphabetical order the definition “Temporary accumulation”.

The revisions and additions read as follows:

§ 257.53 Definitions.

* * * * *

Beneficial use of CCR means the CCR meets all of the following conditions:

- (1) The CCR must provide a functional benefit;
- (2) The CCR must substitute for the use of a virgin material, conserving natural resources that would otherwise need to be obtained through practices, such as extraction; and
- (3) The use of the CCR must meet relevant product specifications, regulatory standards or design standards when available, and when such standards are not available, the CCR is not used in excess quantities.

* * * * *

CCR dewatering structure means a stationary device, designed to temporarily contain an accumulation of CCR which is constructed of non-earthen materials (e.g., concrete, steel, plastic). The device must be used primarily for dewatering CCR waste to facilitate disposal of CCR solids elsewhere.

* * * * *

CCR landfill or landfill means an area of land or an excavation that contains CCR and which is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. For purposes of this subpart, a CCR landfill also includes sand and gravel pits and quarries that receive CCR, any practice that does not meet the definition of a beneficial use of CCR, and any accumulation of CCR on the land that does not meet the definition of a CCR storage pile.

* * * * *

CCR storage pile means any temporary accumulation of solid, non-flowing CCR placed on the land that is designed and managed to control unpermitted releases of CCR to the environment.

* * * * *

CCR surface impoundment or impoundment means a natural topographic depression, man-made excavation, or diked area, designed to hold an accumulation of CCR and liquids, and the unit treats, stores, or disposes of CCR. A unit meeting the definition of a CCR dewatering structure as defined in § 257.53 is not a CCR surface impoundment.

* * * * *

Temporary accumulation means an accumulation on the land that is neither permanent nor indefinite. To demonstrate that the accumulation on the land is temporary, the CCR must be removed from the pile at the site. The entity engaged in the activity may use ordinary business records to demonstrate that the CCR in the pile will be removed according to a specific timeline.

* * * * *

■ 5. Amend § 257.90 by revising paragraph (b)(2) to read as follows:

§ 257.90 Applicability.

* * * * *

(b) * * *

(2) *New CCR landfills, new CCR surface impoundments, and all lateral expansions of CCR units.* Prior to initial receipt of CCR by the CCR unit, the owner or operator must be in compliance with the groundwater monitoring requirements specified in paragraphs (b)(1)(i) and (ii) of this section. In addition, prior to initial receipt of CCR, the owner or operator of the CCR unit must collect and analyze eight independent samples from each well for the parameters listed in appendix III and IV to this part to determine background levels for all appendix III and IV constituents, and initiate the detection monitoring program in § 257.94.

* * * * *

■ 6. Amend § 257.94 by revising paragraph (b) to read as follows:

§ 257.94 Detection monitoring program.

* * * * *

(b) Except as provided in paragraph (d) of this section, the monitoring frequency for the constituents listed in appendix III to this part shall be at least semiannual during the active life of the CCR unit and the post-closure period. For existing CCR landfills and existing CCR surface impoundments, a minimum of eight independent samples from each background and downgradient well must be collected and analyzed for the constituents listed in appendix III and IV to this part no later than October 17, 2017. For new CCR landfills, new CCR surface

impoundments, and all lateral expansions of CCR units, a minimum of eight independent samples for each background well must be collected and analyzed for the constituents listed in appendices III and IV to this part by the deadline in § 257.90(b)(2).

* * * * *

■ 7. Amend § 257.100 by:

■ a. Revising the introductory text of paragraph (g); and

■ b. Adding paragraph (g)(7).

The revision and addition read as follows:

§ 257.100 Inactive CCR surface impoundments and Legacy CCR surface impoundments.

* * * * *

(g) For owners and operators of legacy CCR surface impoundments that completed closure of the CCR unit by removal of waste prior to Friday, November 8, 2024, no later than Friday, November 8, 2024, complete a closure certification that contains the supporting information in paragraphs (g)(1) through (6) of this section or by [DATE SIX MONTHS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] complete a closure certification that contains the information in paragraph (g)(7) of this section:

* * * * *

(7) Documentation that a regulatory authority played an active role in overseeing and approving the closure by removal and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015. Impacts to groundwater must have been considered prior to or as part of the closure. This enforceable requirement includes a State or Federal permit, an administrative order, or consent order under CERCLA or by an EPA-approved RCRA State program.

* * * * *

■ 8. Amend § 257.101 by revising paragraph (g) to read as follows:

§ 257.101 Closure or retrofit of CCR units.

* * * * *

(g) *Deferral of previous closures of legacy CCR surface impoundments.* Deferral to permitting for closures conducted under substantially equivalent regulatory authority. Notwithstanding the provisions of paragraphs (e) and (f) of this section, the owner or operator of a legacy CCR surface impoundment need not demonstrate compliance with the performance standards in § 257.102(c) or (d) provided they demonstrate that the closure of the CCR unit met the standards specified in paragraphs (g)(1) through (4) of this section.

(1) The owner or operator of the CCR unit must document that a regulatory authority played an active role in overseeing and approving the closure and any necessary corrective action, pursuant to an enforceable requirement issued on or after October 19, 2015. This enforceable requirement includes a State or Federal permit, an administrative order, or consent order under CERCLA or by an EPA-approved RCRA State program.

(2) The owner or operator of the CCR unit must document that it installed a groundwater monitoring system and performed groundwater monitoring.

(3) The owner or operator must include the following statement, signed by the owner or operator or an authorized representative, in the applicability report for legacy CCR surface impoundments specified in § 257.100(f)(1) along with all information required by paragraphs (g)(1) through (3) of the section:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(4) Closure equivalency determination at permitting. The owner or operator must submit the following documentation to the permit authority.

(i) A permit application that contains sufficient information, including data on contaminant levels in groundwater, to demonstrate that the applicable § 257.102 or § 257.112 standards have been met.

(ii) The permit authority will review the information to determine whether the “equivalency” of the closure has been successfully demonstrated. If the permit authority determines that the closure has met the relevant part 257 closure standard, the permit authority will issue a permit to require compliance with applicable post-closure requirements. If EPA or a Participating State Director determines that the closure does not meet the relevant part 257 standard the owner or operator will be required to submit a complete permit application and obtain a permit that contains the specific requirements necessary for the closed unit to achieve compliance with § 257.102 or § 257.112.

* * * * *

■ 9. Add an undesignated center heading and § 257.110 to read as follows:

Flexibilities for Owners or Operators of CCR Units Operating Under CCR Permits

§ 257.110 Groundwater monitoring under a CCR permit authority.

(a) *Applicability.* The Participating State Director or EPA, where EPA is the permit authority, may elect to establish alternative points of compliance, pursuant to this section, for CCR units complying with the groundwater monitoring requirements in § 257.91 under a CCR permit, in lieu of those in §§ 257.91(a)(2), (c)(2), and (d)(1) and 257.94(e).

(1) The owner or operator of a CCR unit must comply with all requirements in § 257.91, except as provided for in paragraphs (b) through (e) of this section.

(2) For purposes of this section, *point of compliance* means the vertical surface located hydraulically downgradient of the CCR unit at which the owner or operator of the CCR unit must monitor the uppermost aquifer [to comply with the detection monitoring program and assessment monitoring program in §§ 257.94 and 257.95 or § 257.111. The vertical surface extends down into the uppermost aquifer.

(b) *Establishing alternative points of compliance.* Notwithstanding the requirement to monitor the waste boundary in § 257.91(a)(2), (c)(2), and (d)(1), the permit authority, may establish an alternative point of compliance to be used in lieu of the waste boundary of the CCR unit in accordance with the requirements of this paragraph (b).

(1) The alternative point of compliance must be no more than 150 meters from the waste boundary and located at the facility.

(2) The permit authority, may only establish an alternative point of compliance if the Participating State Director or EPA determines, based on a demonstration by the owner or operator, that the point of compliance, together with the location characteristics, will:

(i) Not materially delay detection of any statistically significant amounts of any of the constituents listed in appendices III and IV to this part from that CCR unit; and

(ii) Will minimize the migration of any of those constituents from that CCR unit to the uppermost aquifer during the active life of the CCR unit and the post-closure care period.

(3) In determining the alternative point of compliance, the permit authority, must analyze and consider the following factors:

(i) Compliance with the location restrictions specified in §§ 257.61 through 257.64;

(ii) Compliance with the corrective action procedures specified in §§ 257.96 through 257.98;

(iii) The hydrogeological characteristics of the facility and surrounding land, including any natural attenuation and dilution characteristics of the aquifer;

(iv) The quantity, quality, and direction of flow of groundwater underlying the facility;

(v) The proximity and withdrawal rates of groundwater users;

(vi) The availability of alternative drinking water supplies;

(vii) The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater;

(viii) The volume and physical and chemical characteristics of the leachate; and

(ix) Public health, safety, and welfare effects.

(c) *Performance standard.* When establishing the alternative point of compliance under paragraph (b) of this section, the permit authority, must ensure the groundwater monitoring system accurately represents the quality of groundwater passing the CCR unit. The downgradient monitoring system must be installed at the point of compliance specified by paragraph (b), that ensures detection of groundwater contamination in the uppermost aquifer. All potential contaminant pathways must be monitored.

(d) *Multiunit groundwater monitoring systems.* Notwithstanding the provisions at § 257.91(d)(1), the permit authority, may establish alternative points of compliance pursuant to paragraph (b) of this section for multiunit groundwater monitoring systems. The multiunit groundwater monitoring system must be equally as capable of detecting monitored constituents from the CCR unit as the individual groundwater monitoring system established in accordance with this subpart based on the following factors:

(1) Number, spacing and orientation of each CCR unit;

(2) Hydrogeologic setting;

(3) Site history; and

(4) Engineering design of the CCR unit.

(e) *Detection and assessment monitoring programs.* When the permit authority, has established an alternative point of compliance in lieu of the waste boundary, the owner or operator of the CCR unit(s) must comply with the detection monitoring program and assessment monitoring program

requirements in §§ 257.94 through 257.95 but must substitute the established alternative point of compliance for all requirements associated with the monitoring wells at the waste boundary.

(f) *Recordkeeping, notification, and internet requirements.* The owner or operator must comply with the applicable recordkeeping requirements specified in § 257.105(h), notification requirements specified in § 257.106(h), and internet requirements specified in § 257.107(h).

■ 10. Add § 257.111 to read as follows:

§ 257.111 Alternative groundwater protection standards for corrective action under a CCR permit authority.

(a) *Applicability.* In lieu of the groundwater protection standards in § 257.95(h)(2), the Participating State Director or EPA, where EPA is the permit authority, may elect to establish alternative groundwater protections standards as provided in this section.

(b) *Alternative groundwater protection standards.* Notwithstanding the groundwater protection standards in § 257.95(h)(2), for constituents for which an MCL has not been established under the regulations referenced in § 257.95(h)(1), the permit authority, may establish alternative groundwater protection standards. These groundwater protection standards shall be appropriate health-based levels that satisfy the following criteria:

(1) The level is derived in a manner consistent with Agency guidelines for assessing the health risks of environmental pollutants, such as the Guidelines for Mutagenicity Risk Assessment, Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures; the Guidelines for Developmental Toxicity Risk Assessment; and the Guidelines for Carcinogen Risk Assessment;

(2) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level, due to continuous lifetime exposure, within the 1×10^{-4} to 1×10^{-6} range; and

(3) For systemic toxicants, the level represents a concentration to which the human population, including sensitive subgroups, could be exposed to on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime. For purposes of this subpart, systemic toxicants include toxic chemicals that cause effects other than cancer or mutation.

(c) *Permit authority considerations.* In establishing groundwater protection standards under paragraph (b) of this section, the Participating State Director

or EPA, where EPA is the permit authority, must consider the following:

(1) The presence and concentrations of other contaminants in the groundwater;

(2) Exposure threats to sensitive environmental receptors; and

(3) Other site-specific exposure or potential exposure to groundwater.

(d) *Groundwater monitoring and corrective action annual report.* The owner or operator must indicate the use of alternative groundwater protection standards in the annual groundwater monitoring report required at § 257.90(e) and include the specific groundwater protection standard for each constituent.

(e) *Recordkeeping, notification, and internet requirements.* The owner or operator must comply with the applicable recordkeeping requirements specified in § 257.105(h), notification requirements specified in § 257.106(h), and internet requirements specified in § 257.107(h).

■ 11. Add § 257.112 to read as follows:

§ 257.112 Closure method under a CCR permit authority.

(a) *Applicability.* The Participating State Director or EPA, where EPA is the permit authority, may elect to use the following closure criteria when approving CCR unit closure plans in lieu of those in § 257.102(c) and (d).

(b) *Closure method.* Notwithstanding § 257.102(c) and (d), the permit authority, may permit the closure of a unit under alternative performance standards provided the permit authority assesses the closure and concludes that closure in accordance with the alternative performance standards will result in no reasonable probability of adverse effects to human health and the environment during the active life of the CCR unit and the post-closure care period. This assessment must be based upon all of the following criteria:

(1) A site-specific conceptual site model and risk assessment of the location in which the CCR unit is located. This assessment must include field collected measurements, sampling, and analysis of physical, chemical, and biological processes affecting contaminant fate and transport, including a minimum, the information necessary to evaluate or interpret the effects of the following properties or processes on contaminant fate and transport:

(i) Aquifer characteristics, including hydraulic conductivity, hydraulic gradient, effective porosity, aquifer thickness, degree of saturation, stratigraphy, degree of fracturing and secondary porosity of soils and bedrock, aquifer heterogeneity, groundwater

discharge, and groundwater recharge areas;

(ii) Waste characteristics, including quantity, type and origin;

(iii) Climatic conditions, including annual precipitation, leachate generation estimates and effects on leachate quality;

(iv) Leachate characteristics, including leachate composition, solubility, density, the presence of immiscible constituents, Eh and pH; and

(v) Engineered controls, including but not limited to liners, cover systems, and aquifer controls (e.g., lowering the water table). These must be evaluated under design and failure conditions to estimate their long-term residual performance.

(2) Contaminant fate and transport predictions that maximize the contaminant migration and consider impacts on human health and the environment.

(3) The identification, proximity, and potential current and future pathways of exposure to nearby human and ecological receptors. The assessment must consider current and future land use when evaluating the potential exposure pathways. If complete pathways are identified, the assessment must include a plan to mitigate potential exposure.

(c) *Recordkeeping, notification, and internet requirements.* The owner or operator must comply with the applicable recordkeeping requirements specified in § 257.105(i), notification requirements specified in § 257.106(i), and internet requirements specified in § 257.107(i).

■ 12. Add § 257.113 to read as follows:

§ 257.113 Closure completion timeframes under a CCR permit authority.

(a) *Applicability.* The Participating State Director or EPA, where EPA is the permit authority, may establish the closure completion timeframes for CCR

units in lieu of those in § 257.102(f)(1) and (2).

(b) *Extraction of CCR during closure.* Notwithstanding § 257.102(f)(1) and (2), for closure with extraction of CCR for beneficial use as a component of the overall closure method, the permit authority, may extend the timeframe for completing closure of a CCR unit specified in § 257.102(f) only if the permit authority finds, based on a demonstration by the owner or operator, that the extended timeframe will pose no reasonable probability of adverse effects on health or the environment. The assessment must be based upon all of the following criteria:

(1) Measures for major slope stability are in place to prevent the sloughing or movement of the unit during the closure period;

(2) The extraction of CCR and closure must be completed consistent with recognized and generally accepted good engineering practices;

(3) Potential risks to human health and the environment during closure of the unit are adequately mitigated; and

(4) The facility is in substantial compliance with all other requirements of this subpart, including the requirements to conduct groundwater monitoring and any necessary corrective action.

(c) *Closure plan.* The owner or operator must submit an updated closure plan pursuant to § 257.102(b)(3).

(d) *Ongoing closure.* The owner or operator must proceed with closure activities of any portion of the CCR unit that is not related to the extraction of CCR for beneficial use to the extent possible within the specified timeframes of § 257.102.

(e) *Recordkeeping, notification, and internet requirements.* The owner or operator must comply with the applicable recordkeeping requirements specified in § 257.105(i), notification requirements specified in § 257.106(i),

and internet requirements specified in § 257.107(i).

■ 13. Add § 257.114 to read as follows:

§ 257.114 Post-closure care under a CCR permit authority.

(a) *Applicability.* The Participating State Director or EPA, where EPA is the permit authority, may allow for extraction of CCR from a closed CCR unit during the post-closure care period in accordance with this section.

(b) *Extraction of CCR during post-closure care.* The permit authority may allow the owner or operator of a closed CCR unit to extract CCR for beneficial use during the post-closure care period only if the permit authority finds, based on a demonstration by the owner or operator, that any extraction of CCR for beneficial use will not pose a reasonable probability of adverse effects to human health and the environment. The assessment must be based upon all of the following criteria:

(1) The extraction of CCR for beneficial use must be completed consistent with recognized and generally accepted good engineering practices;

(2) Potential risks to human health and the environment during post-closure are adequately mitigated; and

(3) The facility is in substantial compliance with all other requirements of this subpart, including the requirements to conduct post-closure care, groundwater monitoring, and any necessary corrective action.

(c) *Recordkeeping, notification, and internet requirements.* The owner or operator must comply with the applicable recordkeeping requirements specified in § 257.105(i), notification requirements specified in § 257.106(i), and internet requirements specified in § 257.107(i).

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Part III

Internal Revenue Service

26 CFR Part 1

Occupations That Customarily and Regularly Received Tips; Definition of
Qualified Tips; Final Rule

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[TD 10044]

RIN 1545–BR63

Occupations That Customarily and Regularly Received Tips; Definition of Qualified Tips**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final rule.

SUMMARY: This document contains final regulations that identify occupations that customarily and regularly received tips on or before December 31, 2024, and provide a definition of qualified tips for purposes of the income tax deduction for qualified tips. These regulations affect individuals who receive tips as part of their occupation.

DATES:

Effective date: These final regulations are effective on June 12, 2026.

Applicability date: For date of applicability, see § 1.224–1(i).

FOR FURTHER INFORMATION CONTACT:

Stephanie Caden or Andrew Holubeck at (202) 317–4774.

SUPPLEMENTARY INFORMATION:**Authority**

These final regulations contain amendments to the Income Tax Regulations (26 CFR part 1) under section 224 of the Internal Revenue Code (Code) related to the deduction for qualified tips. These final regulations are issued under the authority conferred by section 70201(h) of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), which requires that, not later than 90 days after the date of the enactment of the OBBBA, the Secretary of the Treasury or the Secretary's delegate (Secretary) publish a list of occupations that customarily and regularly received tips on or before December 31, 2024, for purposes of section 224(d)(1) of the Code. The regulations are also issued under the authority in section 224(d)(2)(C), which provides that “qualified tips” do not include any amount received by an individual unless such other requirements as may be established by the Secretary in regulations or other guidance are satisfied, and section 224(g) of the Code, which instructs the Secretary to prescribe such regulations or other guidance as may be necessary to prevent reclassification of income as qualified tips, including regulations or

other guidance to prevent abuse of the deduction allowed by section 224. The final regulations are also issued under the authority of section 7805(a) of the Code, which authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to Internal Revenue.

Background

This document contains amendments to 26 CFR part 1 under section 224 of the Code relating to the deduction from income for qualified tips.

Under section 61(a) of the Code, amounts received by individuals as tips are included in gross income and subject to income tax. Treasury regulations under section 61 provide that “[w]ages, salaries . . . [and] tips . . . are income to the recipients unless excluded by law.” See § 1.61–2(a).¹

Section 63(a) of the Code defines taxable income for taxpayers who itemize their deductions as gross income minus allowable deductions (other than the standard deduction). Section 63(b) provides that, in the case of an individual who does not elect to itemize deductions for the taxable year, taxable income means adjusted gross income reduced by the standard deduction and certain other enumerated deductions.

Section 70201(a) of the OBBBA added new section 224 to the Code providing an income tax deduction for “qualified tips” that are received during the taxable year by individuals in an occupation that customarily and regularly received tips on or before December 31, 2024. Section 70201(b) of the OBBBA added the deduction provided by section 224 to the list of deductions used to determine taxable income in section 63(b). Specifically, section 224(a) provides for a deduction in an amount equal to the qualified tips received by an individual in a taxable year that are included on statements² furnished to the individual pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section

6051(a)(18) of the Code, or are reported by the taxpayer on Form 4137, *Social Security and Medicare Tax on Unreported Tip Income* (or successor). Section 224(b)(1) limits this deduction to an amount not to exceed \$25,000 in a taxable year. Section 224(b)(2) further limits the amount of the deduction based on a taxpayer's modified adjusted gross income, which is a taxpayer's adjusted gross income for the taxable year increased by any amount excluded from gross income under section 911, section 931, or section 933 of the Code. The deduction phases out for taxpayers with modified adjusted gross income over \$150,000 (\$300,000 for joint filers).

Section 224(c) provides that, in the case of qualified tips received by an individual during any taxable year in the course of a trade or business (other than the trade or business of performing services as an employee) of such individual, such qualified tips are taken into account under section 224(a) only to the extent that the gross income for the taxpayer from such trade or business for such taxable year (including such qualified tips) exceeds the sum of the deductions allocable to the trade or business in which such qualified tips are received by the individual for such taxable year.

Section 224(d)(1) defines “qualified tips” as cash tips received by an individual in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary. Section 224(d)(2) further requires that qualified tips not include any amount received by an individual unless the amount:

- Is paid voluntarily without any consequence in the event of nonpayment, is not the subject of negotiation, and is determined by the payor;
- Is not received in the course of a trade or business that is a specified service trade or business as defined in section 199A(d)(2) of the Code; and
- Satisfies such other requirements as may be established by the Secretary in regulations or other guidance.

Section 224(d)(2) further provides that, for purposes of determining whether amounts are received in the course of a trade or business that is a specified service trade or business as defined in section 199A(d)(2), in the case of an individual receiving tips in the trade or business of performing services as an employee, such individual is treated as receiving tips in the course of a trade or business which is a specified service trade or business if the trade or business of the employer is a specified service trade or business.

¹ Under section 3121(g), tips are also considered wages for Federal Insurance Contributions Act (FICA) purposes. However, the deduction under section 224 does not apply for FICA purposes and is not taken into account in determining wages subject to FICA tax. Similarly, the deduction under section 224 does not apply for Self-Employment Contributions Act (SECA) purposes and is not taken into account for purposes of determining net earnings subject to SECA tax.

² The House Budget Committee report on the OBBBA, H. Rept. 119–106, at 1503 (2025), specifies that the qualified tip amounts included on reporting statements (for example, Form 1099) must be separately accounted for on the statements.

Section 224(d)(3) provides that for purposes of section 224(d)(1), the term “cash tips” includes tips received from customers that are paid in cash or charged and, in the case of an employee, tips received under any tip-sharing arrangement.

Section 224(e) provides that no deduction is allowed under section 224 unless the taxpayer includes on the return of tax for the taxable year such individual’s Social Security number (SSN) as defined in section 24(h)(7) of the Code.

Section 224(f) provides that if the taxpayer is a married individual (within the meaning of section 7703 of the Code), section 224 applies only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year. That is, the deduction is not available for a taxpayer who is married and files separately.

Section 224(h) provides that no deduction is allowed under section 224 for any taxable year beginning after December 31, 2028.

Section 70201(h) of the OBBBA instructs the Secretary to publish a list of occupations that customarily and regularly received tips on or before December 31, 2024, (“List of Occupations that Receive Tips”) for purposes of section 224(d)(1) no later than 90 days after the date the OBBBA was enacted (July 4, 2025).

The Council of Economic Advisors (CEA) released a report in June 2025, entitled “The One Big Beautiful Bill: Legislation for Historic Prosperity and Deficit Reduction,” that estimates the economic effects and fiscal impacts of OBBBA. In this report CEA estimates that the no tax on tips provision of OBBBA will increase average take-home pay for tipped workers by \$1,300 per year. CEA also estimates that the provisions for no tax on overtime, no tax on tips, and senior tax relief will boost Gross Domestic Product by 0.3 to 0.4 percent while they are in effect and the growth that they generate will yield \$54 to \$73 billion in higher revenue to offset the direct revenue losses attributable to these provisions.

A notice of proposed rulemaking and a notice of public hearing (REG–110032–25) were published in the **Federal Register** (90 FR 45340) on September 22, 2025, proposing regulations under section 224 that identify occupations that customarily and regularly received tips on or before December 31, 2024, and that provide a definition of “qualified tips” for purposes of the income tax deduction for qualified tips under section 224. A public hearing was held telephonically on October 23, 2025, and comments

responding to the notice of proposed rulemaking were received.

On November 5, 2025, the Treasury Department and the IRS released Notice 2025–62, providing penalty relief for certain 2025 information reporting related to the section 224 deduction for qualified tips. In addition, Notice 2025–69, released on November 21, 2025, provides guidance regarding how individuals satisfy the requirements for the section 224 deduction for qualified tips received in 2025. Notice 2025–69 also provides transition relief for taxpayers regarding the requirement that qualified tips must not be received in the course of a specified service trade or business.

Summary of Comments and Explanation of Revisions

This Summary of Comments and Explanation of Revisions summarizes the proposed regulations, all the substantive comments submitted in response to the proposed regulations, and revisions adopted by these final regulations. The Treasury Department and the IRS received 322 written comments in response to the proposed regulations. The comments are available for public inspection at <https://www.regulations.gov> or upon request. After full consideration of the comments received, these final regulations adopt the proposed regulations with modifications in response to such comments as described in this Summary of Comments and Explanation of Revisions.

Many of the comments received were unrelated to tax law or otherwise outside the scope of the proposed regulations. Comments expressing general approval or disapproval of section 224 or the OBBBA, recommending statutory revisions, and addressing issues that are outside the scope of this rulemaking (such as comments relating to IRS forms, reporting procedures, and enforcement) are generally not addressed in this Summary of Comments and Explanation of Revisions section or adopted in these final regulations. Guidance on claiming the deduction for 2025 was provided in Notice 2025–69, and additional guidance on information reporting and claiming the deduction in subsequent years will also be provided in the instructions to the relevant forms.

Some commenters requested a public hearing or requested to speak at the public hearing, which was held telephonically on October 23, 2025. Other commenters requested that the comment period be extended for at least another 30 days. To ensure that these final regulations are issued in time to

provide guidance to taxpayers filing their 2025 income tax returns, the Treasury Department and the IRS did not extend the comment period, and the comment period for the proposed regulations ended on October 22, 2025; however, the Treasury Department and the IRS considered all comments received, including comments submitted after the close of the comment period that were received up to the point in the rulemaking process at which revisions to the regulatory text could no longer practicably be made. Comments received after that point could not be fully evaluated or incorporated due to the advanced stage of the drafting process. In addition to making modifications in response to the comments received, the final regulations also include non-substantive grammatical or stylistic changes to the proposed regulations.

1. Comments on the Methodology Used To Construct the List of Occupations That Receive Tips

Table 1 in § 1.224–1(f) of the proposed regulations contains the proposed list of occupations that customarily and regularly received tips (List of Occupations that Receive Tips) on or before December 31, 2024, that section 70201(h) of the OBBBA instructed the Secretary to provide. The Treasury Department and the IRS compiled the proposed List of Occupations that Receive Tips based on a review of IRS data, legislative history, and survey data regarding tipped occupations and the presence of certain factors demonstrating that those occupations customarily and regularly received tips. Because the Code does not define the phrase “customarily and regularly,” the Treasury Department and the IRS looked to dictionary definitions and other statutory provisions, including the provisions of the Fair Labor Standards Act (FLSA), for guidance.

With these parameters in mind, the Treasury Department and the IRS reviewed data collected from 2023 Forms W–2, *Wage and Tax Statement*,³ that reported tips in box 7 on the form (Social Security tips); Forms 4137 that reported tips on line 4; and

³ Section 224(d)(1) specifies that the occupation must have customarily and regularly received tips on or before December 31, 2024. The Treasury Department and the IRS reviewed data for the 2023 tax year because that was the most recent year for which comprehensive income tax return data was available. The Treasury Department and the IRS compared the 2023 tax year data to similar data for 2017–2022. Because 2023 data was similar to prior year data, the Treasury Department and the IRS reviewed preliminary data for the 2024 tax year and anticipated that final 2024 data would be substantially similar to 2023 data.

corresponding income tax returns (Forms 1040). The Treasury Department and the IRS identified occupations listed on the income tax returns (as reported on page 2 of Form 1040 next to the taxpayer's signature) described in the prior sentence as having customarily and regularly received tips based on the percentage of taxpayers who reported at least \$100 in annual tip income within a given occupation as reported on Form 1040.

To account for limitations in this data, including the fact that the data pool consisted only of individuals working as employees and relied on self-reported and non-standardized occupation descriptions, the Treasury Department and the IRS also evaluated occupations identified in the Gaming Industry Tip Compliance Agreement (GITCA) program, a voluntary tip reporting program for the gaming industry run by the IRS, and other similar IRS tip reporting programs. The Treasury Department and the IRS also consulted the House Budget Committee report on the OBBBA, H. Rept. 119–106, at 1502 (2025), for additional information regarding occupations that traditionally and customarily received tips on or before December 31, 2024. Finally, the Treasury Department and the IRS analyzed survey data from the Panel Study of Income Dynamics (PSID) that included information on occupations and tip income of both employees and self-employed individuals. The PSID is a nationally representative survey conducted by the University of Michigan.

In organizing the proposed List of Occupations that Receive Tips, the Treasury Department and the IRS created a new categorization system based on the 2018 Standard Occupation Classification (SOC Code) system, called the Treasury Tipped Occupation Code (TTOC) system. The SOC Code system is a Federal statistical standard used by Federal agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data. It is published by the Executive Office of the President, Office of Management and Budget (OMB).

Many commenters addressed the methodology used to create the proposed List of Occupations that Receive Tips. One commenter suggested that the IRS review public comments submitted in response to the Bureau of Labor Statistics' Notice of solicitation of comments to revise the SOC for 2028 (BLS–2024–0001), published in the **Federal Register** on June 12, 2024 (89 FR 49911), when considering other occupations to add to the list. Another

commenter suggested that the primary source used to create the list, occupations reported on an income tax return, does not reflect any historical or traditional information about tipped occupations. One commenter noted that many of the occupations on the list, especially those that do not have regular interaction with the public like cooks, dishwashers, and prep cooks, are not historically known to receive tips.

One commenter suggested that the Treasury Department and the IRS narrow the list by focusing on the frequency or prevalence of tip income. The commenter noted that the definitions of customarily and regularly discussed in the proposed regulations were a “logical starting point,” but questioned whether these definitions were applied in the methodology beyond excluding workers reporting less than \$100 in tips per year. The commenter questioned why a \$100 annual threshold was selected instead of a \$30/month threshold, which is used in the FLSA context. One commenter argued that the proposed standard of “more often than occasionally” conflicted with the \$100 annual threshold. Several commenters noted that the proposed regulations do not explain how the additional sources, outside of income tax returns, were used to add occupations to the list and that the addition of certain occupations is not supported by data. Two commenters requested more transparency as to how the list was created, including providing transparent categorization standards, written job descriptions, and stated evidence thresholds for inclusion.

Finally, a few commenters noted that eligibility in a particular occupation should be based on the nature and substance of the services provided in the occupation, rather than the context or industry in which they are provided and that the list should be revised to focus more on the nature of occupations rather than on the industry or type of service or product provided.

One commenter stated that the occupations designated by the Treasury Department and the IRS as eligible for no taxes on tips appropriately captured traditional tipped occupations and requested that none of these occupations be cut from the final rule. Another commenter noted that the proposed List of Occupations that Receive Tips accurately reflects those intended by Congress to receive the tax deduction.

Section 70201(h) of the OBBBA requires the Treasury Department and the IRS to publish a list of occupations that customarily and regularly received tips on or before December 31, 2024.

This provision did not dictate a specific process for creating this list. In constructing a methodology for creating the proposed List of Occupations that Receive Tips, the Treasury Department and the IRS used traditional tools of statutory construction, including dictionary definitions, to clarify what it means for an occupation to customarily and regularly receive tips. In compiling the proposed list, the Treasury Department and the IRS needed a source of occupational data from which to select those occupations that customarily and regularly received tips on or before December 31, 2024, to avoid relying solely on anecdotal information. The Treasury Department and the IRS utilized the best comprehensive data source available to them—occupations reported on 2023 Federal income tax returns,⁴ the latest tax year for which complete information was available at the time the proposed regulations were published. The many different occupations that taxpayers identified on the “Your occupation” line on their income tax returns were analyzed based on the SOC Code associated with the occupation. The SOC Codes associated with income tax returns with accompanying 2023 Forms W–2, Wage and Tax Statement, and Forms 4137, Social Security and Medicare Tax on Unreported Tip Income, reporting more than \$100 per year in tip income were identified and compiled into a preliminary list. For every SOC Code on this list, data on reported tips, including the percentage of individuals within that SOC Code who reported tips (on associated Forms W–2 and 4137), was determined. Thus, occupational data from income tax returns was calculated with respect to the related SOC Code, not necessarily for the occupation listed on the individual income tax return. Next, the Treasury Department and the IRS created the TTOC system for organizing the proposed List of Occupations that Receive Tips. This process sometimes involved combining or dividing certain SOC Codes to describe the occupations in a user-friendly manner and to remove non-tipped occupations that were included under the same SOC Code as tipped occupations. The proposed regulations identified some occupations as distinct categories, while other occupations were embedded in broader categories (for example, eyelash technicians, as discussed later, were included implicitly under TTOC 603

⁴ The Treasury Department and the IRS reviewed preliminary data for the 2024 tax year and anticipated that final 2024 data would be substantially similar to 2023 data.

Barbers, Hairdressers, Hairstylists, or Cosmetologists or TTOC 606 Eyebrow Technicians).

As explained in the preamble to the proposed regulations and noted earlier, the proposed List of Occupations that Receive Tips and its related data on reported tips had limitations. Tipped occupations with a large proportion of individuals working in those occupations as independent contractors may have been underrepresented in the list, since the list only included employees reporting tips.⁵ In addition, in certain cases, tipped occupations were grouped in the same SOC Code as non-tipped occupations, resulting in a lower percentage of individuals reporting tips for that SOC Code than for the occupation within the SOC Code that was the tipped occupation.

As described earlier, other information sources, including occupations identified in the GITCA program, the House Budget Committee report on the OBBBA, and the PSID, were consulted to help address some of the limitations of the list. However, many of these sources were not exhaustive lists of tipped occupations and others were based on data not as comprehensive and statistically significant as income tax return data.

While the data and information the Treasury Department and the IRS used to develop the proposed List of Occupations that Receive Tips had limitations, it was and continues to be the best data available for this purpose. When compiling the List of Occupations that Receive Tips in the proposed and final regulations, the Treasury Department and the IRS reviewed preliminary data available for tax year 2024. This preliminary data was updated between the issuance of the proposed regulations and these final regulations, but in both cases it is substantially similar to the tax year 2023 data and did not alter the list. None of the commenters provided alternatives for reliable data sources, nor did they provide alternative methodologies for constructing the List of Occupations that Receive Tips. For these reasons, the Treasury Department and the IRS used the same methodology and data from

the proposed regulations (including updated preliminary 2024 tax return information) to develop the List of Occupations that Receive Tips in the final regulations.

In response to the comments received regarding occupations not specifically identified in the proposed list, the Treasury Department and the IRS reviewed the same available data at both the SOC Code level and the more granular level of the occupations listed on individual income tax returns.⁶ Where the data supported a modification to the list, the Treasury Department and the IRS expanded or refined the list of occupations in the final regulations to more accurately identify occupations that customarily and regularly received tips on or before December 31, 2024. The specific comments requesting additional occupations and the changes made in response are described later in this preamble.

Concerning comments asking that the occupations on the List of Occupations that Receive Tips be based on the nature and substance of the services provided in the occupation rather than the context or industry in which they are provided, generally the names and descriptions of the occupations on the List of Occupations that Receive Tips are based on the nature of the service provided in that occupation. The groupings of the various occupations under industry-related headings like “Beverage and Food Service” is solely for purposes of organizing the list. However, in a few situations the industry context in which an occupation operates changes the nature of the occupation in comparison to other industrial contexts to such an extent that it becomes a separate occupation. For instance, “desk clerks” in the hospitality industry provide a range of very specific services to hotel, motel, and resort guests such that it is a distinct occupation from desk clerks in other industry contexts.

Some commenters expressed concern that several of the occupations on the list are not considered occupations in which employees “customarily and regularly” receive tips under the FLSA. These commenters were concerned that the inconsistencies might cause confusion. One commenter asked for more clarification as to how the List of Occupations that Receive Tips interacts with FLSA rules.

⁶ The Treasury Department and the IRS reviewed the data at the more granular level of occupations listed on individual income tax returns to verify that the SOC Code grouping did not exclude occupations based on inaccurate data.

As the Treasury Department and IRS explained in the preamble to the proposed regulations, the FLSA uses the phrase “customarily and regularly” in relation to the FLSA tip credit.⁷ The FLSA defines a “tipped employee” for whom an employer may take a tip credit as “any employee engaged in an occupation in which he customarily and regularly receives more than \$30 a month in tips.” 29 U.S.C. 203(t). The FLSA further provides that when an employer takes an FLSA tip credit for a tipped employee, the tipped employee must retain all of the tips the employee receives, except that this requirement “shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.” 29 U.S.C. 203(m)(2)(A).⁸ United States Department of Labor (DOL) regulations provide, in part, that “[t]he phrase ‘customarily and regularly’ signifies a frequency which must be greater than occasional, but which may be less than constant.” 29 CFR 531.57.⁹ DOL guidance also addresses specific occupations in which employees customarily and regularly receive tips within the meaning of the FLSA. For instance, DOL guidance interpreting the FLSA states that servers, counter personnel who serve customers, bellhops, bussers (that is, server helpers), and service bartenders are examples of occupations that “customarily and regularly receive tips” for purposes of the FLSA.¹⁰ The

⁷ See 90 FR at 45344. Under the FLSA, so long as certain criteria are satisfied, employers can take a tip credit to bring a tipped employee’s total wages up to the Federal minimum wage amount. See 29 U.S.C. 203(m)(2)(A)(i)–(ii). Currently, the federal minimum wage is \$7.25 per hour, and the maximum tip credit amount is \$5.12.

⁸ The FLSA’s tip credit has several components, including that an employee must be in an occupation in which the employee customarily and regularly receives at least a certain amount per month in tips (more than \$30), retains all tips (except for a pool limited to employees who customarily and regularly receive tips), receives other direct wages, and receives advance notice to qualify as a “tipped employee” for whom an employer may take a tip credit against its minimum wage obligations. See 29 U.S.C. 203(m)(2)(A), (t).

⁹ The regulations also provide that “if an employee is in an occupation in which he normally and recurrently receives more than \$30 a month in tips, he will be considered a tipped employee even though occasionally because of sickness, vacation, seasonal fluctuations or the like, he fails to receive more than \$30 in tips in a particular month.” 29 CFR 531.57.

¹⁰ See DOL Field Operation Handbook, § 30d08. Retrieved December 18, 2025, from <https://www.dol.gov/agencies/whd/field-operations-handbook>; see also WHD Opinion Letter FLSA2025–03 (Sept. 30, 2025); WHD Opinion Letter FLSA2009–12 (Jan. 15, 2009); WHD Opinion Letter FLSA2008–18 (Dec. 19, 2008); and WHD Opinion Letter FLSA–858 (June 28, 1985) (concluding that barbacks, itamae-sushi and

⁵ Only employees receive Forms W–2, which include separate tip reporting. Similarly, only employees report their tips using Form 4137. Independent contractors do not separately report tips on their income tax returns, and the information returns received by independent contractors prior to 2026, such as Forms 1099–MISC, did not separately report tips. Thus, no tax return information was available concerning tips received by independent contractors. Beginning in tax year 2026, information returns furnished to both independent contractors and employees will separately report certain tips.

occupations DOL has identified as occupations in which employees customarily and regularly receive tips in its guidance are not meant to be exhaustive and do not control for purposes of section 224 of the Code.

There are many differences between the specific language, purpose, and history of the FLSA tip provisions versus the language, purpose, and history of the deduction for qualified tips under section 224 of the Code. Among other things, while the text of the FLSA is expressly limited to occupations in which an employee receives “more than \$30 a month in tips,” section 224 contains no such limitation, and the Treasury Department and IRS have not utilized this threshold for purposes of limiting the List of Occupations that Receive Tips.

In addition, while the FLSA contemplates that an employee must have some level of customer interaction to “customarily and regularly” receive tips,¹¹ section 224(d)(3) provides that for purposes of the deduction for qualified tips under section 224, cash tips include, in the case of an employee, tips received through a tip sharing arrangement. Accordingly, the Treasury Department and IRS included in the proposed List of Occupations that Receive Tips some occupations that may not have extensive, or any, customer interaction, and in which employees have not been considered to customarily and regularly receive tips under the FLSA, including dishwashers and cooks. The final regulations take the same approach.

In addition to the differences discussed above, section 224 and the FLSA serve different purposes. The purpose of section 224 is to provide a deduction for individuals who receive tips, while the FLSA, in relevant part, governs the conditions under which employers may take a credit towards their wage obligations for employees who receive tips. Given that section 224 of the Code and the FLSA tip provisions are entirely different statutory provisions with different histories and purposes, the inclusion of occupations as tipped occupations under section 224 has no bearing or effect on what occupations are considered tipped for purposes of the FLSA and any

differences should not be a source of confusion.

Commenters also asked how the IRS will determine whether a particular taxpayer’s occupation is on the List of Occupations that Receive Tips in the regulations when it is not listed as an illustrative example. One commenter asked that the IRS provide transparency as to how the IRS intends to interpret whether an occupation is on the List of Occupations that Receive Tips. Taxpayers wishing to claim the deduction and entities responsible for information reporting are primarily responsible for ensuring their occupation is on the List of Occupations that Receive Tips. The list, in most instances, is sufficiently specific to provide clarity. The IRS intends to interpret the occupations on the list in a fair and impartial manner consistent with their commonly understood meaning.

Several commenters asked that the List of Occupations that Receive Tips be a non-exhaustive one (one commenter stating that an exclusive list was not supported by statute). One commenter suggested instituting a safe harbor provision for claiming deductions for non-listed occupations and setting up a semi-annual review process for adding new occupations to the list. Another commenter suggested listing the occupations in a revenue procedure and updating the revenue procedure with additional occupations based on more current data, if necessary.

Because section 224(d)(1) provides that “[t]he term ‘qualified tips’ means cash tips received by an individual in an occupation which customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary,” only tips received in an occupation that is on the List of Occupations that Receive Tips “provided by the Secretary” are qualified tips. In addition, the statutory language does not contemplate an evolving or updated List of Occupations that Receive Tips but rather describes one list of occupations that customarily and regularly received tips at a specific point in time—on or before December 31, 2024. Through the notice of proposed rulemaking notice and comment process, interested parties were provided the opportunity to suggest additions and other edits to the List of Occupations that Receive Tips in the proposed regulations. As discussed later, the Treasury Department and the IRS made several revisions in response to the comments. However, the statute requires that the Secretary provide a comprehensive list as of a fixed point in time. For this reason, the final

regulations contain the requirement from the proposed regulations that only qualified tips received in connection with the occupations on the List of Occupations that Receive Tips are eligible for the deduction in section 224(a). However, note that while the List of Occupations that Receive Tips is exhaustive, the illustrative examples of occupations that fit within each TTOC are not. There may be other occupations that fall within a TTOC that are not listed as an illustrative example.

2. Comments Concerning the List of Occupations That Receive Tips

Several commenters indicated their support for specific occupations included on the proposed List of Occupations that Receive Tips, including occupations in the beauty industry, app-based delivery drivers, and digital content creators. Many commenters requested that additional occupations be added to the List of Occupations that Receive Tips. Several of the requested additions were for occupations that were already included in the proposed List of Occupations that Receive Tips, either as their own category or specifically mentioned as an illustrative example in an existing category, such as pet groomers, digital content creators, dancers, boat workers, pool cleaners and yoga instructors. Those occupations remain on the final list.

A. Comments Requesting Additional Details or Clarification for Occupations Already on the List of Occupations That Receive Tips

Some commenters requested that additional occupations be included as illustrative examples in the categories in which they belong. The illustrative examples were provided to assist taxpayers, but they are not an exhaustive list of every occupation that fits under a TTOC occupation category. For example, under the TTOC for Travel Guides (705), cruise director and river expedition guide are listed as illustrative examples. But other travel guides, such as a hiking guide or urban ghost tour guide, would also be included in this TTOC, even though they are not listed as illustrative examples.

One commenter asked about including “table game supervisors” in casinos on the List of Occupations that Receive Tips. The SOC Code for “First-Line Supervisors of Gambling Service Workers” (39–1013), whose duties can include planning and organizing activities and services for guests in hotels and casinos, was included in the proposed List of Occupations that

teppanyaki chefs, and a “wine-server/captain-host,” respectively, could be included in a tip pool with tipped employees for whom the employer took a tip credit).

¹¹ See *Montano v. Montrose Rest. Assocs.*, 800 F.3d 186, 189–194 (5th Cir. 2015) (holding that a factfinder could determine that an employee did not “customarily and regularly receive tips,” despite the fact that the employer included him in a tip pool).

Receive Tips under TTOC 201, Gambling Dealers, and continues to be included under this category in the final regulations. Thus, table game supervisors are covered by the Gambling Dealers category.

One commenter requested that residential building staff, such as doormen, be added to the list. Most residential building staff are covered by the categories in the proposed List of Occupations that Receive Tips. For example, if a residential building has a concierge, they are already included in the “Concierges” category (TTOC 302). Residential building maintenance workers fit under the “Home Maintenance and Repair Workers” (TTOC 401). And finally, doormen fit as part of the “Baggage Porters and Bellhops” (TTOC 301). However, to clarify that this category can include workers who do not work in a hotel or motel, “doorman” has been added to the list of illustrative examples for this category in the final regulations.

Another commenter asked that eyelash technicians be added to the List of Occupations that Receive Tips. The proposed List of Occupations that Receive Tips included “Eyebrow Threading and Waxing Technicians” (TTOC 606). For clarity, in the final regulations this category is revised to read “Eyebrow and Eyelash Technicians,” and additions were made to the description to include eyelash technicians.

One commenter asked that a winery tasting room server be added to the List of Occupations that Receive Tips. The proposed List of Occupations that Receive Tips included “Food Servers, Non-restaurant” (TTOC 103), and a winery tasting room server is covered by this category. The final regulations clarify this by amending the category name to “Food and Beverage Servers, Non-restaurant” (newly added language shown in *italics*).

One commenter asked that the phrase “over established routes or within an established territory” be removed from the description of “Goods Delivery People” (TTOC 804) to clarify that app-based delivery workers (also called gig economy delivery drivers) are covered by that category. The proposed illustrative examples focused on the service being performed (e.g., pizza delivery, package delivery) rather than the method through which the service was requested. The Treasury Department and the IRS agree that adding “app/platform based delivery person” to the illustrative list would be helpful. The final regulations include this clarification in both “Goods Delivery People” (TTOC 804) and “Taxi

and Rideshare Drivers and Chauffeurs” (TTOC 802). In addition, the phrase “over established routes or within an established territory” has been removed from the description of “Goods Delivery People” in the final regulations.

One commenter asked that more detail be provided for the various occupations in the “Recreation and Instruction” grouping to encompass the full range of outdoor recreation guiding and instructional activities, and more specifically that “Tour Guides” and “Travel Guides” expressly include outdoor, wilderness, and expedition guiding services. Although outdoor recreation occupations are addressed in “Travel Guides” (TTOC 705) (river expedition guide is listed as an illustrative example), the Treasury Department and the IRS agree that additional detail would be helpful, and the final regulations include a parenthetical noting that both indoor and outdoor locations are covered.

Another commenter requested that banquet wait staff be added to the List of Occupations that Receive Tips. The proposed regulations included the “Wait Staff” (TTOC 102) category. The Treasury Department and the IRS agree that additional detail would be helpful to confirm that banquet wait staff are covered by this category. The final regulations add “banquet staff” as an illustrative example, and the description is amended to read, “Take orders and serve food and beverages to patrons in dining establishments *or at catered events*” (newly added language shown in *italics*).

One commenter asked whether people who dress as Santa Claus for parties are in an occupation that customarily and regularly received tips on or before December 31, 2024. Individuals dressed up as Santa Claus, as well as other characters or celebrities, are covered by the “Entertainers and Performers” (TTOC 208) category.

Another commenter asked that self-enrichment and self-improvement instructors, such as intuition coaches, energy practitioners (including Reiki and Energy Psychology practitioners), and meditation instructors be included on the List of Occupations that Receive Tips. Although these specific occupations were not identified in the proposed regulations, depending on the nature of the instruction provided and the facts and circumstances of each particular situation, these instructors could be covered under “Self-Enrichment Teachers” (TTOC 702), if their instruction is for the primary purpose of self-enrichment, rather than for an occupational objective, educational attainment, competition; or

fitness; “Sports and Recreation Instructors” (TTOC 706), if they are teaching or instructing individuals or groups for the primary purpose of recreation, rather than for an occupational objective, educational attainment, competition, or fitness; or “Exercise Trainers and Group Fitness Instructors” (TTOC 608), if they are instructing or coaching groups or individuals in exercise activities for the primary purpose of personal fitness.

One commenter requested that senior living and resident care service providers be included in the List of Occupations that Receive Tips. The proposed regulations would have included the category of “Personal Care and Service Workers” (TTOC 501). To clarify that resident care is also included in this occupation category, the description in the final regulations provides that “work is performed in various settings depending on the needs of the care recipient and may include locations such as their home, place of work, out in the community, at a daytime nonresidential facility *or a residential facility*” (newly added language shown in *italics*).

Another commenter asked that the illustrative examples name all beauty-sector occupations including estheticians and apprentices and assistants. As discussed previously, the illustrative examples are a non-exhaustive list of occupations. In addition, the final regulations clarify that apprentices and assistants qualify under the applicable TTOC occupation category if they perform the same services as those listed in the TTOC occupation description.

Finally, a commenter noted that the proposed category of “Pet Caretaker” (TTOC 506) would exclude individuals who provide care to horses because horses are considered livestock in certain legal contexts. This commenter stated that certain tasks involved in the care of horses, including grooming and exercising, are similar to the tasks included in the description of pet caretakers. In response to this comment, the final regulations include the category of “Pet and Show Animal Caretaker” (TTOC 506). In addition, “horse groomer” has been added to the list of illustrative examples for this occupation category.

B. Comments Suggesting New Occupations Be Added to the List of Occupations That Receive Tips

In evaluating comments suggesting new occupations for inclusion on the List of Occupations that Receive Tips, the Treasury Department and the IRS consulted the same data sources as in

preparing the proposed List of Occupations that Receive Tips in the proposed regulations (the 2023 income tax return data, the preliminary data available for tax year 2024, IRS voluntary tip reporting program data, legislative history and survey data regarding tipped occupations), as well as the updated preliminary data available for tax year 2024. The Treasury Department and the IRS examined the data for the suggested new occupations at the more granular level of the occupations listed on individual income tax returns, in addition to looking at the SOC Codes of the suggested new occupations. This examination of the data is the basis for responding to the following comments.¹²

One commenter requested that “florists” be included on the List of Occupations that Receive Tips. The proposed regulations would have included event florist as an illustrative example of “Private Event Planners” (TTOC 502), and the SOC Code for Floral Designers, 27–1023, would have been included as one of the related SOC Code for TTOC 502. Similarly, the proposed regulations would have included floral delivery persons as an illustrative example of “Goods Delivery People” (TTOC 804). In response to this comment, the Treasury Department and the IRS reviewed the available data again, this time examining the data for occupations listed on individual income tax returns that were related to florists, in addition to looking at data for florist-related SOC Codes. The Treasury Department and the IRS determined that the data for florist-related occupations listed on individual income tax returns supports adding a new TTOC for “Floral Designers” (TTOC 510), which encompasses a wider variety of floral workers. “Event florist” was removed as an illustrative example from “Private Event Planners” and added to the new “Floral Designers” category, and the related SOC Code, 27–1023, was also moved from “Private Event Planner” to the new “Floral Designers” category.

Another commenter asked that artists and artisans be added to the List of Occupations that Receive Tips. The proposed regulations did not separately identify artists as an occupation that customarily and regularly received tips on or before December 31, 2024. However, individuals who may be

described as artists appeared in multiple occupation classifications, and the proposed regulations would have included certain performing artists on the List of Occupations that Receive Tips. For example, both dancers and musicians would have been included (TTOC 205 and 206). In response to this comment, the Treasury Department and the IRS reviewed the same data sources described in the proposed regulations, examining the data for occupations listed on individual income tax returns that were related to artists, distinct from occupations such as dancers and musicians, in addition to looking at data for artist-related SOC Codes. The Treasury Department and the IRS determined that the data for artist-related occupations listed on individual income tax returns supports the conclusion that a visual artist is also an occupation that customarily and regularly received tips on or before December 31, 2024. The final regulations include the new category of “Visual Artists (TTOC 509)” This category includes individuals who create original visual artwork using any of a wide variety of media and techniques. Examples of this category include ice sculptor and caricature sketch artist. Tip-related income tax return data for the occupation “artisan” did not support adding this occupation category as a separate TTOC. However, the terms “artist” and “artisan” are similar in meaning and it is possible that many individuals who perform services as an artisan might also be considered as performing services as an artist, depending on the particular facts and circumstances.

One commenter suggested that gas station attendants who pump gas for customers where they are required to do so by State law should be included on the List of Occupations that Receive Tips. The Treasury Department and the IRS reviewed tip-related income tax return data for gas pump attendants located in New Jersey and Oregon, the two States that currently prohibit customers from pumping their own gas.¹³ This data showed that gas pump attendants in States where full-service gas pumping is mandated customarily and regularly received tips on or before December 31, 2024. Based on this data, the final regulations include a new TTOC for “Gas Pump Attendants,”

which applies to all individuals who pump gas for customers at a gas station and may also clean the windshield, check the oil level, or check the tire pressure of the customer’s car in conjunction with the car being refueled.

Commenters suggested that chiropractors, accountants, tax preparers, clergy members, concert merchandise sellers, and “low bono” legal service providers (legal professionals who provide legal services to clients on a sliding scale based on income) be added to the List of Occupations that Receive Tips. In response to these comments, the Treasury Department and the IRS reviewed the same data sources described in the proposed regulations (as well as the updated preliminary 2024 tax data), examining the data for occupations listed on individual income tax returns that were related to chiropractors, accountants, tax preparers, clergy members, concert merchandise sellers, and “low bono” legal service providers, in addition to looking at the data for the SOC Codes related to these occupations. Except for clergy members acting in certain roles, the Treasury Department and the IRS determined that the data does not support that these occupations were customarily and regularly tipped on or before December 31, 2024. For that reason, these occupations are not included in the List of Occupations that Receive Tips in the final regulations. Concerning clergy, while the data does not support listing clergy members as a separate occupation that customarily and regularly received tips, it does reflect that clergy may receive tips in an event setting such as a wedding or funeral. For this reason, they are included as an illustrative example under “Event officiants” with a TTOC of 505.

Some commenters asked that retail cashiers be included on the List of Occupations that Receive Tips. The Treasury Department and the IRS reviewed the same data sources described in the proposed regulations (as well as the updated preliminary 2024 tax data), examining the data for occupations listed on individual income tax returns that were related to retail cashiers, in addition to looking at the data for the SOC Codes related to this occupation. While tip-related income tax return data does show that some individuals who self-identified as “cashiers” received tips, the data also shows that these cashiers receiving tips mostly worked in an industry that would classify them as an occupation separate from “retail cashier.” Specifically, many such cashiers

¹² Given the wide variation of terms used to characterize occupations on income tax returns, it was not feasible to examine every occupation in this way. For this reason, this examination was conducted only for occupations that commenters suggested were missing from the list of tipped occupations in the proposed regulations.

¹³ Under 2023 Oregon House Bill No. 2426, signed into law on August 4, 2023, the state of Oregon now allows self-service in certain situations, but certain gas stations in the State are still required to provide full service for at least half of the gas pumps at the station. 2023 Oregon House Bill No. 2426, Oregon Eighty-Second Legislative Assembly.

worked in the Hotel and Food Services sectors so that these cashiers would likely be categorized as Fast Food and Counter Workers (TTOC 107) (for those in food establishments) or Hotel, Motel, and Resort Desk Clerks (TTOC 303) (for those in hotel establishments). Thus, the data does not support adding a more generalized “cashier” category, and this occupation category is not included in the List of Occupations that Receive Tips in the final regulations.

Another commenter requested that the full range of positions in the gaming industry be included in the List of Occupations that Receive Tips, including poker associates who change out chips in casinos, and online dealers (sometimes known as game presenters) and other workers in the online gaming industry. There is no statutory authority in section 224 for including an occupation based solely on the fact that it is practiced in a certain industry. Only occupations that customarily and regularly received tips on or before December 31, 2024, are included in the List of Occupations that Receive Tips. Occupations in the gaming industry that meet this criterion are included in the list. This includes many of the occupations identified by the commenters, such as poker associates who change out chips in casinos (included in “Gambling Change Persons and Booth Cashiers” (TTOC 202)). For these reasons, no additional occupational categories were added to the List of Occupations that Receive Tips in response to this comment.

One commenter asked that the regulations clarify the tax consequences when managerial staff or owners participate in tip pools. The rules under the FLSA prohibit managers and supervisors from receiving tips from a tip pool. See 29 U.S.C. 203(m)(2)(b) and 29 CFR 531.54(c)(3) and (d). Given this prohibition under the FLSA, the final regulations provide that amounts received by a manager or supervisor through a voluntary or mandatory tip-sharing arrangement such as a tip pool are not qualified tips. However, the final regulations also clarify that amounts received *directly* by a supervisor or manager for services they provided in the course of duties performed in an occupation that customarily and regularly received tips on or before December 31, 2024, are qualified tips if all other requirements for qualified tips are met. Two examples that demonstrate this provision concerning managers are included in the final regulations.

Finally, several commenters suggested that there should be a safe harbor for all participants in a GITCA or Tip Rate Determination Agreement (TRDA)

providing that they are automatically considered in a qualifying occupation. One commenter suggested that GITCA participants should not be eligible for the deduction. Another commenter asked that GITCA participants be able to claim the deduction based on their designated tip rates. Section 224 provides no basis for automatically considering participants in GITCA and TRDA as working in occupations on the List of Occupations that Receive Tips. An occupation that did not customarily and regularly receive tips on or before December 31, 2024, is not eligible for the section 224 deduction, even if workers in a similar occupation may have customarily and regularly received tips in certain specific contexts (such as in a casino). For these reasons, no safe harbor for GITCA and TRDA participants was added to the final regulations. There also is no basis for excluding an otherwise eligible individual from the section 224 deduction merely because the individual is a participant in GITCA, and no such rule is included in the final regulations. In addition, the proposed regulations would have provided that GITCA participants could claim the deduction based on their designated tip rates, and this provision is included in the final regulations.

Other nonsubstantive edits were made to the chart to correct SOC Code numbering errors. No occupations included on the proposed List of Occupations that Receive Tips in the proposed regulations were removed from the List of Occupations that Receive Tips in the final regulations.

3. Comments on the Requirement That Qualified Tips Must Be Voluntary

Section 224(d)(2)(A) expressly requires that qualified tips are paid “voluntarily without any consequence in the event of nonpayment” and not “the subject of negotiation.” The proposed regulations would have provided that amounts are qualified tips only if they are paid voluntarily and without any consequence in the event of nonpayment, are not the subject of negotiation, and are determined by the payor. Concerning automatic gratuities, the proposed regulations would have provided that qualified tips must be paid without compulsion and therefore service charges, automatic gratuities and any other mandatory amounts automatically added to a customer’s bill by the vendor or establishment are not qualified tips, even if the amounts are subsequently distributed to employees. However, if a customer is expressly provided an option to disregard or

modify amounts added to a bill, such amounts are not mandatory amounts.

Several commenters supported the exclusion of automatic gratuities from the definition of qualified tips in the proposed regulations. These commenters agreed that an automatic gratuity is not voluntary as required by section 224. Other commenters argued that automatic gratuities and service charges serve the same purpose as other tips and should be considered qualified tips. These commenters contended that many employers already treat these amounts as tips and that automatic gratuities are an important source of income for certain employees, such as cooks and dishwashers, who do not typically receive tips through tip-sharing arrangements due to FLSA tipping rules.¹⁴ Several of these commenters maintained that automatic gratuities are an important source of tips in large group and banquet situations. Several commenters requested a transition rule, allowing individuals to treat service charges as tips for 2025. Some commenters argued that an automatic gratuity is voluntary in the sense that the customer takes the automatic gratuity into account when deciding whether to patronize an establishment.

Automatic gratuities added to a bill with no explicit option for the customer to decline or adjust the gratuity are mandatory because the customer must pay the gratuity to receive the service. The customer’s “option” to reject the automatic gratuity by opting not to patronize the business is not an option to pay or not pay a gratuity (which is a choice a customer ordinarily makes based on the customer’s opinion of the service after the service is provided), but is instead the option to patronize or not patronize the business (which is a choice the customer makes based on, among other things, the cost of the service, including the automatic gratuity, and the type and quality of services offered by the business, before the customer receives any service). In addition, the business determines the tip percentage of an automatic gratuity, not the customer (*i.e.*, the payor). For these reasons, automatic gratuities do not comply with the requirements for qualified tips provided by section 224(d)(2)(A). To the extent that the customer freely decides to provide an additional gratuity, this additional

¹⁴ The FLSA provides that when an employer takes an FLSA tip credit for a tipped employee, the tipped employee must retain all of the tips the employee receives, and the employer cannot require the employee to pool tips except with other “employees who customarily and regularly receive tips.” 29 U.S.C. 203(m)(2)(A).

amount constitutes a qualified tip if all factors are met with respect to that portion.

In addition, the IRS has long maintained that service charges do not qualify as tips. Revenue Ruling 2012–18 provides that the absence of any of the following factors creates a doubt as to whether a payment is a tip and indicates that the payment may be a service charge: (1) the payment must be made free from compulsion, (2) the customer must have the unrestricted right to determine the amount, (3) the payment should not be the subject of negotiation or dictated by employer policy, and (4) generally, the customer has the right to determine who receives the payment. See also Ann. 2012–25, 2012–26 I.R.B. 1058; Rev. Rul. 59–252, 1059–2 C.B. 215. Example A in Revenue Ruling 2012–18 concludes that an 18% charge automatically added to a bill for a large party is a service charge and not a tip because it was dictated by the employer and was not paid free from compulsion.

Because the proposed regulations are consistent with section 224 and the IRS's longstanding position that service charges are not tips, the final regulations maintain the position in the proposed regulations that automatic gratuities, such as service charges, are not qualified tips for purposes of the deduction. In addition, because the statute is clear on this point and the IRS's position that automatic gratuities are not tips has been publicly available since at least 2012, a transition rule for 2025 concerning automatic gratuities is not warranted.

One commenter noted that while Revenue Ruling 2012–18 used similar rules to section 224(d)(2)(A) to distinguish between tips and service charges for FICA and income tax withholding purposes, the revenue ruling, unlike the proposed regulations, did not include examples with respect to “suggested gratuities”. The commenter suggested that the revenue ruling be updated to include examples of “suggested gratuities” that mirror those in the proposed regulations to provide further clarification of the revenue ruling's application in these situations. The Treasury Department and the IRS agree that the revenue ruling contains rules for distinguishing tips from service charges that are similar to the rule provided in section 224(d)(2)(A) and that “suggested gratuities,” as described in the proposed regulations, comply with these rules such that they would be considered tips under the revenue ruling. Updates to Revenue Ruling 2012–18 are outside the scope of these final regulations, but the Treasury Department and the IRS will

consider updating Revenue Ruling 2012–18 or providing additional guidance containing examples involving suggested gratuities and the employment tax consequences of those payments.

The proposed regulations would have provided several examples demonstrating voluntary tipping practices involving Point-of-Sale (POS) system. Some commenters requested that the final regulations clarify that other POS systems are considered voluntary as long as they provide the customer with the option of selecting a zero value. Specifically, several commenters mentioned “tip sliders” that allow the customer to designate a tip using a sliding bar on a POS screen, which the customer “slides” to the desired tip amount. Other commenters asked about POS systems that only allow the customer to either choose a percentage or choose “other” and input zero manually.

The proposed regulations would have provided that if a customer is expressly provided an option to disregard or modify amounts added to a bill, such amounts are not mandatory amounts. The language in the final regulations has been modified slightly to make clear that the customer must have the option to reduce the tip amount to zero. Under this provision, tip selection methods such as POS systems with a tip slider that goes to zero or an option for the customer to select “other” and input zero are voluntary. The examples in the final regulations have been modified to clarify that these methods are considered voluntary tipping practices.

A few commenters asked if contractual arrangements that include suggested tips for services before they are provided are voluntary tips. One commenter asked for clarification as to what “without consequence” means. In § 1.224–1(c)(3) (*Example 8*) of the proposed regulations described a contract with varying prices depending on whether a tip was included. The failure to agree to a specific tip amount resulted in a higher price for the service. Accordingly, nonpayment of the tip was not “without consequence” in this situation (because nonpayment resulted in a higher price). If the contract terms merely added the discretionary tip as a “convenience” for the customer, subject to the customer's agreement, the tip would be voluntary. The Treasury Department and the IRS agree that additional guidance would be helpful on this issue. Although whether the failure to pay a tip is made “without consequence” will depend on the facts and circumstances of a particular situation, the final regulations clarify

that situations where nonpayment of a tip is without consequence include situations where nonpayment of the tip does not have any impact on the scope or cost of the service. The final regulations also contain a new example where the tip is part of the contract that is entered into before the services are provided. The example concludes that the tip is a qualified tip because it is paid without consequence. If the customer had chosen to not pay the tip then the scope or cost of the service would not have been affected.

Several commenters requested clarification regarding the voluntary nature of payments to digital content creators. One commenter noted that creators often perform multiple activities in a single session, and payments could be intended for different activities. The commenters asked for guidance on when payments are tips versus compensation for performance or content. One commenter asked that the final regulations clarify that audience engagement mechanisms such as “super chats,” and “super stickers,” which provide superficial digital rewards to consumers of digital content, are qualified tips. Other commenters asked that the final regulations address situations where the platform hosting a digital content creator's content receives a portion of the tip amount.

In response to the comments regarding the activities of digital content creators, the final regulations include two new examples to help clarify when payments to digital content creators are tips and when they are compensation. One example involves customer payments to a digital content creator that enable customers to gain access to the creator's content. These payments are not tips, but rather compensation to the creator for services provided (*i.e.*, the content). The other example involves voluntary customer payments to a digital content creator after the customer has already gained access to the creator's content, which is a tip to the content provider because the payment was not required to access content and was voluntary and determined by the customer.

The final regulations also clarify that tipping digital content creators through audience engagement mechanisms that result in superficial digital rewards, such as highlighted messages or other digital tokens of appreciation from the tip recipient that are negligible in value, do not disqualify an otherwise qualified tip. The final regulations also provide an example involving digital content creators and audience engagement mechanisms.

Concerning platforms that retain a portion of amounts provided as tips to content creators, platform hosting is not the equivalent of content creation and is not on the List of Occupations that Receive Tips. Section 224(d)(1) provides that the term “qualified tips” means cash tips *received by an individual*. For purposes of the statute, the term “individual” refers to the person performing the services and receiving tips in connection with those services and does not include an entity that facilitates payment or transmits amounts between customers and service providers. In the context of digital content creation, amounts provided by users as tips are received only to the extent such amounts are paid to the content creator. Any portion of a user’s payment that is retained by a host platform, which is not an occupation on the List of Occupations that Receive Tips, is not received by the individual content creator and is not a qualified tip for purposes of the section 224 deduction. No changes were made to the final regulations in response to this comment.

4. Other Comments Regarding the Definition of “Qualified Tips”

Several commenters asked that the final regulations clarify whether tips that are not reported on an information return because, for instance, the tip is provided in cash to an independent contractor or is below the required reporting threshold for certain information returns, are qualified tips. Other commenters asked that the IRS provide a mechanism similar to Form 4137 for independent contractors to report tips that are not included on an information return.

The text of section 224(a) allows a deduction only for amounts of qualified tips that are “included on statements furnished to the individual pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section 6051(a)(18), or reported by the taxpayer on Form 4137 (or successor).” The proposed regulations would have included similar language in § 1.224–1(a). In response to these comments, the final regulations further clarify that amounts received as a tip that are not separately reported to an individual on a statement furnished to the individual pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section 6051(a)(18), or reported by the taxpayer on Form 4137 (or successor) are not eligible for the deduction under section 224. *But see* Notice 2025–69 for transition rules related to 2025. Issues related to reporting requirements, such as providing a means by which

independent contractors can report tips that are not included on an information return, are beyond the scope of these regulations. The requirement that tip amounts be reported to independent contractors on an information return is statutory and serves as an anti-abuse measure to prevent independent contractors from recharacterizing income as tips.

Another commenter asked that the final regulations provide a mechanism for partners to claim the deduction. The amount of a tip received by a partner in a partnership in the individual’s capacity as a partner would be reported on an information return provided to the partnership, not to the individual partner, even if the individual partner ultimately receives the tip. Section 224(a) is clear that only qualified tips included in a statement furnished to an “individual” can be allowed as a deduction under section 224. Because the statement reporting the tip is provided to the partnership, not the individual, the partner cannot claim this amount as a deduction under section 224.

Finally, one commenter requested that the final regulations clarify eligibility for the deduction for an employee who works in two different occupations for the same employer, one occupation that is on the List of Occupations that Receive Tips and one that is not. If all other section 224 statutory and regulatory requirements are met, any tip amount received in an occupation that is on the List of Occupations that Receive Tips in § 1.224–1(i) may be claimed as a deduction under section 224. Tip amounts received in an occupation that is not on the List of Occupations that Receive Tips are not eligible for the deduction. If an individual works in two occupations, one that is on the List of Occupations that Receive Tips and one that is not, the individual may claim the qualified tip amounts received in the occupation that is on the List of Occupations that Receive Tips as a deduction under section 224 (assuming all other statutory and regulatory requirements are met), but may not claim as a section 224 deduction any tip amounts received in the occupation that is not on this list. If an employee works in two occupations that are both on the List of Occupations that Receive Tips, the individual may claim the qualified tip deduction with respect to amounts received in both occupations under section 224. Since this result is a function of existing rules in the proposed regulations, no change was made in the final regulations to address this question.

5. Cash Tips Definition

The proposed regulations would have defined cash tips as tips received from customers or, in the case of an employee, through a mandatory or voluntary tip-sharing arrangement, such as a tip pool, that are paid in a cash medium of exchange, including by cash, check, credit card, debit card, gift card, tangible or intangible tokens that are readily exchangeable for a fixed amount in cash (such as casino chips), and any other form of electronic settlement or mobile payment application that is denominated in cash. The proposed regulations would have excluded from this definition items paid in any medium other than cash, such as event tickets, meals, services, or other assets that are not exchangeable for a fixed amount in cash (such as most digital assets). The proposed regulations would have defined “tips” as “amounts paid by customers for services that are in excess of the amount agreed to, required, charged, or otherwise reasonably expected to have to be paid for the services in an arm’s-length transaction.

Several commenters asked for more clarification on the definition of cash tips. One commenter suggested that “cash tips” be defined as any medium denominated in U.S. cash, so as not to imply a preference for physical currency. Some commenters asked that the final regulations affirm that the use of certain specific methods of payment, including digital tipping systems (such as mobile apps), ticket-out/ticket-in systems (used in casinos), and digital assets such as stablecoins, bitcoin and ether (referred to as Ethereum in the comment), qualify as cash tips for purposes of the deduction. One commenter asked that the final regulations allow for future guidance to define cash tips in the event other dollar-pegged methods become available. A few commenters requested the final regulations address foreign-sourced tip amounts and domestic-sourced tip amounts that are paid in foreign currency, specifically, whether these amounts qualify for the deduction and the reporting obligations for foreign-sourced income.

Commenters also asked whether voluntary amounts that are added to e-commerce purchases and donations made to community websites are qualified tips.

The Treasury Department and the IRS have determined that the cash tips definition in the proposed regulations generally provides a comprehensive definition that already addresses the various methods of payment about

which commenters inquired. For this reason, the definition of cash tips in the final regulations remains largely unchanged from the proposed regulations with the exception that the final regulations clarify that for purposes of section 224, cash tips also include amounts paid in foreign currency. Concerning digital tipping systems, if the tips provided through the system are denominated in cash (*i.e.*, paid as a fixed amount of currency); are in excess of the amount agreed to, required, charged, or otherwise reasonably expected to have to be paid for the services; and are provided to an independent contractor or, if provided to an employee, are provided to the employee directly or through a tip-sharing arrangement, then the tips are considered cash tips for purposes of the deduction. In order for the amount to be eligible for the section 224 deduction in the case of an employee, the amount must also be reported to the employer as required by section 6053(a)¹⁵ or reported by the employee on Form 4137. Similarly, if tips provided using a casino ticket-out, ticket-in system comply with the requirements for cash tips provided in these final regulations, then the tips are cash tips.

The proposed regulations did not directly address the treatment of stablecoins pegged to the value of the U.S. dollar. Some commenters noted that the intended treatment of stablecoins under the proposed regulations was unclear and requested clarification. These requests, and other developments, have led the Treasury Department and the IRS to reconsider whether any digital assets, including stablecoins, should be considered cash tips for purposes of section 224. Most notably, in July 18, 2025, Congress enacted the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act (Pub. L. 119–27), which provides a framework for regulating certain stablecoins, referred to as “payment stablecoins.”¹⁶ The GENIUS Act makes clear that payment stablecoins are distinct from national currencies and provides that payment stablecoins may not be marketed as legal tender or as issued by the United States. On September 19, 2025, the Treasury

Department published an Advance Notice of Proposed Rulemaking (ANPRM) soliciting public comments on questions relating to the implementation of the GENIUS Act (90 FR 45159). Though the GENIUS Act does not address the Federal income tax treatment of payment stablecoins, the ANPRM solicited comments on the extent to which guidance on their tax treatment would be necessary or helpful to taxpayers. The Treasury Department is reviewing the comments it received on the ANPRM and considering potential guidance on these topics, including whether payment stablecoins should be treated as cash or cash equivalents for certain U.S. Federal income tax purposes. In addition, legislative proposals have been advanced that would address various tax issues relating to digital assets, including the treatment of stablecoins.

In light of the foregoing, the final regulations provide that all digital assets (as that term is defined in section 6045(g)(3)(D) of the Code and § 1.6045–1(a)(19)) are excluded from the definition of cash tips. The Treasury Department and the IRS will consider the tax treatment of payment stablecoins in connection with implementation of the GENIUS ACT, including whether these final regulations should be revised if payment stablecoins are treated as cash or cash equivalents for other U.S. Federal income tax purposes. Additionally, if legislation is enacted that modifies the characterization of digital assets or of particular digital assets such as payment stablecoins such that they may be more appropriately characterized as “cash tips,” the Treasury Department and the IRS will take that legislation into account in considering whether to revise the rules governing the treatment of digital assets provided in these final regulations.

Concerning future guidance for other methods of payment, if the need arises to address other methods of payments, the Treasury Department and the IRS will consider issuing additional guidance at that time.

Regarding comments on e-commerce voluntary surcharges, whether or not a voluntary surcharge added to an e-commerce purchase is a qualified tip depends on the occupation of the tip recipient. If the service provided through the e-commerce transaction is from a person providing that service in an occupation that is on the List of Occupations that Receive Tips, and all other requirements for qualified tips are met, then the tip is a qualified tip. For example, if a customer commissions an artist on an e-commerce site to create a piece of art, and the customer includes

a cash tip when providing payment, the cash tip is a qualified tip if all other requirements for qualified tips are met because “artist” is an occupation included in the List of Occupations that Receive Tips.

Finally, concerning voluntary charitable donations, including donations to community websites for the benefit of an individual or group of individuals, such amounts are not qualified tips because they are not amounts paid to an individual in excess of an expected or agreed-upon amount for a service provided in an arm’s length transaction.

6. Specified Service Trade or Business Exclusion

The proposed regulations would have provided that an amount received by an individual in the course of a specified service trade or business (as defined in section 199A(d)(2) and § 1.199A–5(b)) is not a qualified tip. Tips received by an employee performing services for the employee’s employer in the course of a specified service trade or business operated by the employer are not qualified tips, and the proposed regulations would have clarified that this rule would have applied without regard to whether an owner of the trade or business is able to claim a section 199A deduction. The proposed regulations would have also clarified that this rule applies even if the employee receiving tips in the course of working for a specified service trade or business employer is working in an occupation that customarily and regularly received tips on or before December 31, 2024, and is listed on the proposed List of Occupations that Receive Tips. The Treasury Department and IRS requested comments on the application of the existing rules under § 1.199A–5(b) to the specified service trade or business definition in section 224.

One commenter expressed concern that using the definition of a specified service trade or business from section 199A(d)(2) may exclude occupations that have historically received tips. Another commenter noted that Treasury and IRS lack the authority to expand the tips deduction by deviating from section 199A(d)(2)’s definition of a specified service trade or business. Several commenters suggested that additional guidance be issued to explain how the specified service trade or business rules apply in determining the qualified tips deduction, including adding examples of how the specified service trade or business rules apply in different employment and self-employment scenarios and the recordkeeping

¹⁵ With respect to employees, the existing rules under section 6053(a) require employees to report tips received in the course of their employment to their employers, and employers to take those reported amounts into account for wage reporting purposes. This reporting requirement does not apply to independent contractors.

¹⁶ The GENIUS Act becomes effective on the earlier of January 18, 2027, or 120 days after final implementing regulations are issued. The term “payment stablecoin” is defined in section 2(22) of the GENIUS Act.

requirements that must be met. One commenter requested specific guidance regarding the interplay of the hotel and lodging industry and qualified tips for those engaged in a specified service trade or business. Another requested that the act of providing personal appearance services, such as barbering, not be considered a specified service trade or business for purposes of the deduction. Another commenter noted that the exclusion for tips received in a specified service trade or business creates uncertainties and administrative complexities for employers and tipped workers, and that certain employers that did not previously have to determine whether they were specified service trade or businesses will now have to make such determinations. One commenter supported a clarification in the final regulations that roles that do not pertain to the principal trade or business at an establishment may still receive the deduction from tips paid in the course of employment at a specified service trade or business.

One commenter suggested that the specified service trade or business exclusion be applied when taxpayers file their personal income tax returns, rather than by requiring Form W-2 and Form 1099-series reporting. Another commenter requested that the final regulations refine the definition of specified service trade or business in § 1.199A-5 for section 224 purposes by providing objective criteria for the term, “reputation or skill,” defining the terms “appearance at an event” and “well known,” and adopting a de minimis safe harbor so that occasional demonstrations or media moments while working for a non-specified service trade or business employer do not trigger specified service trade or business classification. The commenter also recommended that the final regulations clarify whether a person who is not “well-known” and working for a non-specified service trade or business employer at an event may nevertheless trigger tip disqualification if they make an incidental specified service trade or business “appearance.”

The deduction for qualified tips is a newly enacted provision and taxpayers receiving tips in 2025 are determining their eligibility for the deduction for the first time. As stated in Notice 2025-69, the Treasury Department and the IRS understand that it may be difficult for taxpayers to determine whether their tips were received in the course of a specified service trade or business. This may be particularly difficult for employees, since section 224(d)(2) provides that this determination turns on whether the trade or business of their

employer in the course of which they receive tips is a specified service trade or business. In light of these considerations, Notice 2025-69 provided transition relief for taxpayers regarding the requirement that qualified tips must not be received in the course of a specified service trade or business. In the interest of sound tax administration, Notice 2025-69 provided a transition period for purposes of IRS enforcement and administration with regard to the specified service trade or business requirement. Specifically, the Notice stated that, until January 1 of the first calendar year following the issuance of final regulations regarding the determination of whether a trade or business is a specified service trade or business for purposes of section 224 and associated employer information reporting, the IRS will treat taxpayers (both employees and self-employed individuals) as having received tips in the course of a trade or business that is not a specified service trade or business if the taxpayer is in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary. The Notice further provided that the Treasury Department and the IRS intend to issue proposed regulations and solicit public comment on these issues before publishing final regulations. The final regulations do not address the specified service trade or business exclusion under section 224, but subsection (g) of § 1.224-1 is reserved for guidance on this exclusion.

7. Comments Concerning Amounts Received for Illegal Activities, Pornography, and Prostitution

The proposed regulations would have provided that any amount received for a service the performance of which is a felony or misdemeanor under applicable law is not a qualified tip. The proposed regulations would have further excluded from the definition of qualified tips, any amount received for prostitution services and any amount received for pornographic activity.

Some commenters supported these exclusions, and one commenter requested that this exclusion be expanded to include amounts paid to strippers, exotic dancers, or other sexually suggestive performers who dance solely for the purposes of provocation. Several other commenters objected to the exclusions, arguing that the Treasury Department and the IRS lack authority to impose these restrictions. In addition to noting that certain pornography is legal, some commenters stated that pornography is

protected First Amendment speech, that these businesses pay taxes, and that in fairness these businesses and their employees should have access to the deduction for qualified tips. One commenter suggested the prohibition be limited to activity that is unlawful under State or Federal law. Several commenters requested that the regulations define pornographic activity.

Section 224(d)(2)(C) provides an amount received by an individual is not a qualified tip unless “such other requirements as may be established by the Secretary in regulations or other guidance are satisfied.” The exclusion from qualified tips for illegal activities, prostitution services, and pornographic activities falls under the authority granted to the Treasury Department and the IRS in section 224(d)(2)(C) and (g), and these provisions remain unchanged in the final regulations. This exclusion is intended to address the potential for greater noncompliance and abuse with respect to these activities and services. The Treasury Department and the IRS will consider whether to provide additional guidance regarding these exclusions.

One commenter noted that State-legal cannabis industry workers operate in regulated, State-compliant industries and should not be excluded merely because their employers engage in commerce that involves a federally classified controlled substance. Workers in the cannabis industry must meet statutory and regulatory requirements like any other employee to be eligible for the deduction for qualified tips. Tips received by these workers must be received in an occupation that is included on the List of Occupations that Receive Tips and must not be received for a service the performance of which is a felony or misdemeanor under applicable law, including under Federal law, to be qualified tips eligible for the deduction under section 224. Currently, Federal law and many State laws generally make it unlawful to manufacture, distribute, dispense, or possess marijuana. If Federal law changes, making certain marijuana-related transactions legal, and those same transactions are legal under State law, then tip amounts received in such transactions may be qualified tips if all other requirements for qualified tips are met. No change was made in the final regulations in response to this comment.

8. Anti-Abuse Rules

Section 224(g) provides that, “[t]he Secretary shall prescribe such regulations or other guidance as may be necessary to prevent reclassification of

income as qualified tips, including regulations or other guidance to prevent abuse of the deduction allowed by this section.” Under this authority and to prevent reclassification of income as qualified tips and other abuses, the proposed regulations would have provided that a payment is not a qualified tip if the tip recipient has an ownership interest in or is employed by the payor of the tip. Further, section 224(d)(2)(A) defines “qualified tips” as amounts that are, among other things, “determined by the payor.” The proposed regulations would have reiterated this rule as part of the requirement that qualified tips be voluntary.

Several commenters suggested providing additional rules to prevent recharacterization of non-tip income to tip income. One commenter noted that the regulations contain no bright-line anti-abuse tests, specific prohibitions, or illustrative examples that delineate permissible versus impermissible practices and suggested there should be a bright line test that triggers disallowance. Another commenter suggested broadening the definition of qualified tips under the proposed regulations to include an anti-recharacterization provision that states that an amount is not a “qualified tip” if, based on all the facts and circumstances, it represents an arrangement to replace or suppress wages, or attempts to reclassify service charges or wages as tips for the purpose of obtaining the deduction. Another commenter asked that “tips” or gratuities be very specifically defined so that performance bonuses for professional services are not included. One commenter recommended concrete standards, evidentiary benchmarks, or examples that would deter artificial recharacterization, guide audit selection procedures, and state what indicators auditors would look for and what type of documentation would be required.

Other commenters suggested modifications to the rule prohibiting qualified tips from being paid to individuals with an ownership interest in the payor and to employees of the payor. One commenter suggested that an example of a non-abusive situation in which an employee’s employer is the payor of a tip would be when an employee is employed by two unrelated employers, one for a tipped occupation and one for a non-tipped occupation, and the employer for the non-tipped occupation tips the employee for services provided by the employee in the tipped occupation. The commenter suggested that the final regulations limit the rule by providing a narrow

definition of “ownership interest” that excludes de minimis or incidental holdings, and by limiting the application of the rule to situations where the tipped worker knows, or reasonably should know, that the ultimate source of funds is their employer.

The Treasury Department and the IRS agree that additional clarity on the prohibition against reclassification of income as qualified tips would be helpful. To that end, the final regulations replace the provision prohibiting ownership in or employment by a payor with a provision stating that an amount is not a qualified tip, and thus not eligible for the deduction if, based on all relevant facts and circumstances, the amount represents a recharacterization of wages or payments for goods or services for purposes of claiming the deduction. The final regulations further provide that facts and circumstances that may indicate a recharacterization of wages, payment for services, or other income as tips include:

- A charge for services provided in an invoice is less than the payment from the payor shown on a related receipt or information return, and the cash tip reported on the receipt or information return is in an amount that approximates the difference between the charge amount on the invoice and payment amount on the receipt or information return; and
- A significant shift in historical tipping or payment practices between the payor and the tip recipient.

In addition, the final regulations provide that if the following facts and circumstances are present, there is an irrebuttable presumption that the amount paid reflects a recharacterization of wages, payment for services, or other income as tips, and therefore cannot be a qualified tip:

- The employer of an employee is the payor, as defined in § 1.224–1(c)(5) of the final regulations, of a cash tip received by the employee.
- The tip recipient has a direct ownership interest in the payor, as defined in § 1.224–1(c)(5) of the regulations, of a cash tip.

The final regulations define ownership interest to mean, in the case of a corporation, ownership (by vote or value) of five percent or more of the stock in such corporation; in the case of a partnership, ownership of five percent of the profits interest or capital interest in such partnership, or in any other case, ownership of more than five percent of the beneficial interests in the entity. An ownership interest is tested as of the date the tip is received. The

final regulations also provide that an ownership interest is a direct ownership interest if it is an ownership interest held directly by the tip recipient or if it is an ownership interest held through an entity disregarded as separate from its owner for Federal income tax purposes; an ownership interest held through a qualified subchapter S subsidiary as defined in section 1361(b)(3) of the Code; an ownership interest held through a grantor trust (under subpart E of part 1 of subchapter J of chapter 1 of the Code); or an ownership interest held through a custodian, broker, nominee, agent, or other similar intermediary.

Because of its potential for abuse, the final regulations provide no specific exceptions for the situation in which an employee has more than one employer, and the employer unrelated to the tipped occupation provides a tip to the employee.

Per the suggestion that “tips” be very specifically defined, the final regulations adopt the definition of tips from the proposed regulations. Under this definition, tips are amounts paid by customers for services that are in excess of the amount agreed to, required, charged, or otherwise reasonably expected to have to be paid for the services in an arm’s-length transaction. An amount that meets this definition (whether labeled as a performance bonus for services or otherwise) is a tip for purposes of the deduction under section 224. Whether the tip is a qualified tip depends on whether the other requirements under section 224 and these final regulations are satisfied. Concerning the audit selection procedure suggestions, as noted earlier, audit selection and other IRS enforcement procedures are beyond the scope of these regulations.

One commenter requested confirmation that a tip received directly from a customer by a single-member limited liability company (LLC) or sole proprietor will not be disallowed merely because the entity could be viewed as making the payment to the individual owner. In response to this comment, and to provide clarity concerning who is considered the payor of a tip, the final regulations define the term “payor” as the ultimate recipient of the services which, in most cases, is the customer, client, or other service recipient. The final regulations further clarify that an entity, such as an employer, a third party settlement organization, or a sole proprietorship or single-member LLC through which a tip recipient is doing business, that acts merely as conduit to remit a tip initially paid by a customer, client, or service recipient to the tip recipient, is not a payor of the tip for

purposes of these regulations. Finally, the final regulations clarify that statements furnished to a sole proprietorship or a single-member LLC that does not elect to be treated as a corporation for income tax purposes owned by a tip recipient are considered to be furnished to the tip recipient owner of the sole proprietorship or single-member LLC to which the statement was issued, regardless of whether the name of the sole proprietorship or single-member LLC appears as the recipient on the statement.¹⁷

9. Tip-Sharing Arrangements

Section 224(d)(3) defines cash tips to include “tips received under any tip-sharing arrangement.” Consistent with this definition, the proposed regulations would have defined cash tips to include “tips received from customers or, in the case of an employee, through a mandatory or voluntary tip-sharing arrangement, such as a tip pool.”

Some commenters requested more guidance on tip-sharing arrangements. One commenter asked that the final regulations distinguish between a voluntary customer tip received by an employee, a mandatory service charge imposed by the employer, and an employer-mandated tip pool that redistributes tips. The definition of cash tips in the proposed regulations would have included both tips received through “a mandatory or voluntary tip-sharing arrangement,” and this is consistent with the broad statutory language that defines cash tips to include tips received under any tip-sharing arrangement. The final regulations contain similar language with nonsubstantive revisions.

One commenter asked for more guidance concerning staff who participate in tip-sharing arrangements but who may not be listed specifically in the List of Occupations that Receive Tips. The Treasury Department and the IRS considered the language in section 224(d)(3) to indicate that, for purposes of the deduction for qualified tips under section 224, there is no distinction between employees in occupations

receiving tips directly from customers and employees in occupations receiving tips through tip-sharing arrangements with other employees. However, the employee must still receive the tips in an occupation that customarily and regularly received tips on or before December 31, 2024. Participation in a tip-sharing arrangement by itself is not sufficient. The employee must also be in an occupation on the List of Occupations that Receive Tips, and all other statutory and regulatory requirements must be met. No additional language was added to the final regulations to address this comment.

A few commenters were concerned about State laws on tip-sharing arrangements such as tip pooling. One commenter wanted the regulations to clarify that employees on the List of Occupations that Receive Tips are eligible for the deduction, even if they work in a State that prohibits or restricts tip pooling. Another commenter requested that the regulations provide that they preempt State laws concerning tip pooling. Nothing in section 224 prohibits an individual from claiming the deduction because of State law involving tip-sharing arrangements such as tip pooling. However, section 224 is a Federal income tax deduction. It does not impact Federal or State laws concerning tip-sharing arrangements. Since these rules are a function of existing laws and outside the scope of these regulations, no language was added to the final regulations concerning this comment.

10. Married Individuals and Social Security Numbers

Section 224(b)(1) limits the deduction for qualified tips to an amount not to exceed \$25,000 in a taxable year. Section 224(b)(2) further limits the amount of the deduction based on a taxpayer's modified adjusted gross income, with the deduction phasing out for taxpayers with modified adjusted gross income over \$150,000 (\$300,000 for joint filers). Section 224(f) provides that if the taxpayer is a married individual within the meaning of section 7703, section 224 applies only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

Reflecting these statutory provisions, the proposed regulations would have provided that the total amount of qualified tips that can be deducted on a return per calendar year is \$25,000, regardless of filing status. After applying the \$25,000 limitation, the proposed regulations would have provided that the amount is subject to the phase-out based on the taxpayers' modified

adjusted gross income described in section 224(b)(2). Finally, the proposed regulations would have provided that taxpayers who are married must file a joint return to claim the deduction allowed by section 224.

Several commenters asserted that the \$25,000 maximum annual deduction should apply per spouse on a joint return. They argued that limiting the deduction to \$25,000 in this instance penalizes married individuals and unfairly disadvantages joint filers when both spouses work in tipped occupations. These commenters also noted that households with two tipped workers face higher work-related costs and should have a higher cap. At least one commenter agreed with the position in the proposed regulations that the maximum deduction should be limited to \$25,000 per return, regardless of filing status.

Section 224(b)(1) limits the amount of the deduction to \$25,000 for any taxable year, without reference to filing status. Consistent with this statutory language, the final regulations maintain the position of the proposed regulations that the maximum annual deduction for an individual or a joint return is \$25,000.

One commenter asked that the IRS consider indexing this threshold to updated cost-of-living and inflation factors or increasing the threshold outright to \$200,000/\$300,000 to ensure the deduction effectively benefits the intended middle-class earners and families. Because such indexing is not provided for in section 224, the final regulations do not include this suggestion.

One commenter opposed requiring married individuals to file jointly in order to be eligible for the deduction. Because section 224(f) requires married individuals to file jointly in order to be eligible for the deduction, the final regulations retain this rule.

In accordance with section 224(e), the proposed regulations would have provided that to claim a deduction under section 224, a taxpayer must include on the taxpayer's tax return a valid for work SSN (valid SSN) that was issued before the due date of the return (including extensions). The proposed regulations would have further provided that married taxpayers are required to include the valid SSN of the taxpayer who has received the tips to claim the deduction, and a valid SSN is required of both taxpayers only when both have qualified tips for which the deduction is being claimed.

One commenter stated that the SSN requirement risks disproportionate exclusion of immigrant and informal workers and could incentivize

¹⁷ Form W-9, *Request for Taxpayer Identification Number and Certification*, instructs both sole proprietorships and single-member LLCs (not treated as a corporation) to include the individual name of the owner on line 1. Therefore, if the payee completes Form W-9 correctly, and the payor correctly uses the info on Form W-9 to complete the appropriate Form 1099, then the individual's name should appear on the Form 1099. However, this rule is intended to clarify that if the instructions change or if the form is incorrectly filled out and includes only the business name, the reporting statement is still considered to be issued to the owner of the sole proprietorship or single-member LLC.

underreporting or off-the-books arrangements and suggested providing an Individual Taxpayer Identification number (ITIN) safe harbor illustration. Another commenter said that the IRS should not impose a requirement that both spouses use SSNs. Finally, one commenter asked that the regulations include easy examples showing what to do when only one spouse receives tips and what to keep on file if someone moves from ITIN to SSN during the year, so they do not lose the deduction.

The valid SSN requirements are statutory. Consistent with these statutory provisions, the final regulations contain the same requirements as the proposed regulations. Income tax return instructions will include information and examples for how to claim the deduction, including how married taxpayers filing jointly claim the deduction if just one spouse has tip income. If a taxpayer is issued a valid SSN for the calendar year in which the taxpayer is claiming the deduction under section 224, the taxpayer may use all qualified tips received in that calendar year in determining the deduction, as long as the taxpayer includes the valid SSN on the taxpayer's return for that year. The final regulations reflect this clarification.

Another commenter suggested that the regulations explicitly bar noncitizens from being eligible for the section 224 deduction. Section 224(e) prohibits the deduction unless the taxpayer's valid SSN is listed on the return claiming the deduction. As the proposed regulations would have done, the final regulations include this prohibition. However, certain noncitizens are eligible to obtain valid SSNs and therefore would be eligible for the section 224 deduction.

11. Self-Employed Individuals

In accordance with 224(c), the proposed regulations provide that generally for self-employed taxpayers, the deduction under section 224 for a trade or business is limited to the individual's net income (without regard to the section 224 deduction) from that trade or business.

Several commenters had questions concerning how to determine net income for purposes of section 224(c). One commenter asked that the regulations confirm that the deduction cannot create or increase a loss. Another commenter requested that the regulations explicitly state whether the self-employed health insurance deduction, the one-half of self-employment tax deduction, and the self-employed retirement deduction are

allocable to the trade or businesses for purposes of section 224(c). Another commenter requested precise guidance, with illustrative examples, on how "net income" should be calculated for a sole proprietor filing Schedule C, specifically clarifying whether this figure is before or after the deduction of ordinary and necessary business expenses (like booth rent, supplies, and self-employment tax).

Consistent with section 224(c), the proposed regulations would have provided that the section 224 deduction cannot create or increase a loss. Whether any particular deduction, such as the self-employed health insurance deduction, the one-half of self-employment tax deduction, and the self-employed retirement deduction, is allocable to a trade or business for purposes of section 224(c) is a question that is beyond the scope of these regulations. However, section 224(c) is clear that the qualified tip deduction is not allocable to a trade or business for purposes of this section. For any individual performing services in a trade or business (other than as an employee), such as a sole proprietor filing a Schedule C, the deduction for qualified tips under section 224 for that trade or business is limited to the amount remaining after gross income from the trade or business, including the qualified tips received in the course of the trade or business, is reduced by the deductions allocable to the trade or business in which the tips are received, which, in the case of a sole proprietor filing a Schedule C, would include the expenses deducted on the Schedule C for that trade or business.

Some commenters had general questions about independent contractors. One commenter stated that gig workers who are considered independent contractors should qualify for this deduction as the tips are a part of the job. Another commenter asked that the regulations provide a short example involving an independent contractor with more than one occupation (for example, at a salon and a separate makeup service) to demonstrate how to allocate tips and apply the \$25,000 deduction maximum. One commenter asked that the regulations provide formal transition relief for self-employed individuals allowing for a "reasonable estimate" of qualified tips received between January 1, 2025, and the publication date of the final rule.

Gig workers can qualify for this deduction if their occupation is on the List of Occupations that Receive Tips and the other statutory and regulatory requirements of section 224 are met.

The \$25,000 maximum deduction is applied per tax return and is not applied separately to different occupations for a taxpayer, or spouses in the case of spouses filing jointly, with multiple occupations. Instructions for how to apply the \$25,000 maximum deduction limitation when claiming the deduction are beyond the scope of these regulations but will be provided in instructions to income tax returns. Transition relief for individuals claiming the deduction under section 224 in tax year 2025 is provided in Notice 2025-69. Because these comments are addressed elsewhere in the final regulations, as well as in other guidance, no additional changes were made to the final regulations to address these comments.

12. Other Comments

A few commenters asked that the final regulations address certain situations where children receive tips. One commenter suggested that the regulations address child digital content creators and the deduction's applicability as it relates to parents claiming the income of their social media influencer children. Another commenter suggested rules that exclude parents who "tip" their child's business with large amounts to effectively increase gift tax (and similar tax) exemption limits. These comments are beyond the scope of these regulations. Nothing in section 224 nor these regulations change the rules governing the reporting and treatment of income received by children or the rules regarding gift taxes.

13. Severability

If any provision in this rulemaking is held to be invalid or unenforceable facially, or as applied to any person or circumstance, it shall be severable from the remainder of this rulemaking, and shall not affect the remainder thereof, or the application of the provision to other persons not similarly situated or to other dissimilar circumstances.

Applicability Dates

These regulations apply for taxable years beginning after December 31, 2024. As stated in the NPRM, taxpayers may rely on the proposed regulations for taxable years beginning after December 31, 2024, and on or before the date these regulations are published as final regulations in the **Federal Register**, provided that taxpayers follow the proposed regulations in their entirety and in a consistent manner.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

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

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

Need for Regulation

Section 70201 of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One Big Beautiful Bill Act (OBBBA), adds new section 224 to the Internal Revenue Code,¹⁸ which provides an income tax deduction for “qualified tips” that are reported on Internal Revenue Service (IRS) returns and various forms. The statute requires, under section 70201(h) of the OBBBA, that not later than 90 days after the date of enactment of OBBBA, the Secretary of the Treasury or the Secretary's delegate (Secretary) publish a list of occupations that customarily and regularly received tips on or before December 31, 2024, for purposes of defining the term “qualified tips” under section 224(d)(1).

The final regulations clarify the definition of “qualified tips” for purposes of the income tax deduction under section 224. As required by section 70201(h) of the OBBBA, the final regulations also provide the list of occupations that customarily and regularly received tips on or before

December 31, 2024 (List of Occupations that Receive Tips). The purpose of these final regulations is to provide guidance on requirements of section 224 to claim the deduction, including the definition of “cash tips;” the requirement for the taxpayer to include on the tax return for the taxable year such individual's Social Security number (SSN); and the requirement that if the taxpayer is married (within the meaning of section 7703), that section 224 shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year. The final regulations also clarify that the deduction is limited to \$25,000, regardless of the taxpayer's filing status, and that the deduction is reduced based on the taxpayer's modified adjusted gross income for that taxable year after applying the \$25,000 limitation.

I. The Statute and Final Regulations

For taxable years beginning after December 31, 2024, and before January 1, 2029, employees and self-employed individuals may deduct qualified tips from their gross income when calculating their federal income tax liability. Section 224(d)(1) defines the term “qualified tips” to mean cash tips received by an individual in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary.

Section 224(d)(3) defines the term “cash tips” for the purposes of section 224(d)(1) to include tips received from customers that are paid in cash or charged and, in the case of an employee, tips received under any tip-sharing arrangement. The final regulations clarify that “cash tips” are amounts received, directly or indirectly, from customers, including in the case of an employee, tips received through a mandatory or voluntary tip-sharing arrangement, that are paid in a cash medium of exchange, including by check, credit card, debit card, gift card, tangible or intangible tokens that are readily exchangeable for a fixed amount in cash (such as casino chips), and any other form of electronic settlement or mobile payment application that is denominated in cash. The final regulations also clarify that, for the purposes of section 224, cash tips also include amounts paid in foreign currency. Cash tips do not include items paid in any medium other than cash or charge, such as event tickets, meals, services, or other assets that are not exchangeable for a fixed amount in cash. For purposes of section 224, cash tips also do not include digital assets as defined in section 6045(g)(3)(D) and § 1.6045–1(a)(19).

Section 224(a) allows qualified tips to be deducted if they are included on Form W–2, “Wage and Tax Statement;” Form 1099–NEC, “Nonemployee Compensation;” Form 1099–K, “Payment Card and Third Party Network Transactions;” Form 1099–MISC, “Miscellaneous Information;” or Form 4137, “Social Security and Medicare Tax on Unreported Tip Income.” The final regulations clarify that statements furnished to a sole proprietorship or a single-member LLC owned by a tip recipient are considered furnished to the tip recipient owner of the sole proprietorship or a single-member LLC to which the statement was issued, regardless of whether the name of the sole proprietorship or single-member LLC appears as the recipient on the statement.

In addition, employees that enter a Tipped Employee Participation Agreement as part of the IRS Tip Rate Determination Agreement (TRDA) program or a Model Gaming Employee Tip Reporting Agreement as part of the IRS Gaming Industry Tip Compliance Agreement (GITCA) program report their tips according to tip rates established under their agreement (and these tips are included on Form W–2). The final regulations clarify that the term “qualified tips” for employees participating in the TRDA or GITCA program includes tips reported using the tip rates established under their agreement and additional tips reported on Form 4137.

The final regulations clarify that the section 224(d)(2)(A) term “qualified tips” only includes amounts that are paid by the customer voluntarily without any impact on the scope or cost of service or any other consequence in the event of nonpayment, are not the subject of negotiation, and are determined by the customer. The final regulations also clarify that the term “qualified tips” does not include tips that were received while performing a service that is a felony or misdemeanor under applicable law. (However, “qualified tips” may include tips received for a service that is legal but while working for an establishment that violates applicable law in other respects.) In addition, the final regulations provide that amounts received for prostitution services and pornographic activity are not included in the definition of “qualified tips.” The final regulations provide that amounts received by a manager or supervisor through a voluntary or mandatory tip-sharing arrangement such as a tip pool are not qualified tips, but amounts received directly by a supervisor or manager for services provided in the

¹⁸ References to a “section” are to a section of the Internal Revenue Code of 1986, as amended (Code), unless otherwise indicated.

course of duties performed in an occupation included on the List of Occupations that Receive Tips are qualified tips if all other regulatory requirements are met. The final regulations also clarify that a payment is not considered a “qualified tip” if, based on all relevant facts and circumstances, the payments represent a recharacterization of wages or payments for services as tips for purposes of claiming the deduction under section 224. Furthermore, the final regulations provide that if the following facts and circumstances are present, there is an irrebuttable presumption that the amount paid is a recharacterization of wages, payment for services, or other income as tips, and therefore cannot be a qualified tip: (A) the employer of an employee is the payor of a cash tip received by the employee; or (B) the tip recipient has a direct ownership interest in the payor of a cash tip.

Section 224(c) limits the deduction for qualified tips received by a self-employed individual to the gross income (including the qualified tips) from their trade or business minus the sum of their deductions (other than the deduction for qualified tips) that are allocable to that trade or business. The final regulations clarify that the deduction for qualified tips is not included when calculating this limit because it is not a trade or business deduction.

The final regulations clarify the requirement in section 224(e) that taxpayers must include their SSN (as defined in section 24(h)(7)) on their tax return to claim the deduction for qualified tips. Taxpayers with an Individual Taxpayer Identification Number (ITIN) rather than an SSN will not be able to use their tips to claim the deduction under section 224. The final regulations also clarify that a taxpayer must be issued an SSN, as defined in section 24(h)(7) of the Code, before the due date of the income tax return (including extensions) for the calendar year in which the taxpayer is claiming the deduction under section 224. Married taxpayers must include the SSN of the taxpayer who earned the qualified tips that are being used to claim the deduction; if both spouses earned qualified tips for the deduction, then they must include the SSNs of both spouses on their tax return. The final regulations clarify section 224(f), which requires married individuals (within the meaning of section 7703) to file a joint tax return for the taxable year to claim the deduction for qualified tips.

Section 224(b)(1) limits the deduction for qualified tips for any taxable year to \$25,000. The final regulations clarify

that this limitation applies regardless of the taxpayer’s filing status for that taxable year. Under section 224(b)(2)(A), the deduction for qualified tips is reduced (but not below zero) by \$100 for each \$1,000 by which the taxpayer’s modified adjusted gross income (MAGI) exceeds \$150,000 (\$300,000 in the case of a joint return). Section 224(b)(2)(B) defines “modified adjusted gross income” for the purposes of this phaseout as adjusted gross income of the taxpayer for the taxable year plus any amount excluded from gross income under section 911, section 931, or section 933. The final regulations clarify that the phaseout based on MAGI is applied after applying the \$25,000 limit to the deduction.

The final regulations implement the statutory requirement from section 70201(h) of the OBBBA that the Secretary publish a list of occupations that customarily and regularly received tips on or before December 31, 2024. For each occupation, the list provides a numeric Treasury Tipped Occupation Code (TTOC), an occupation title, a description of the types of services performed by individuals working in the occupation, illustrative examples of specific occupations that would be included, and the Standard Occupation Classification (SOC Code) that is related to the occupation. The final regulations also clarify that these occupations include individuals acting as assistants or apprentices to the listed occupations to the extent they perform the described services.

II. Baseline

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

III. Affected Entities and Taxpayers

By providing clarity to the statutory definition of “qualified tips” and publishing the statutorily required list of occupations that customarily and regularly received tips on or before December 31, 2024, the final regulations affect taxpayers who wish to claim the deduction for qualified tips on their individual income tax returns beginning in taxable year 2025. Using confidential tax return data, the Treasury Department and the IRS estimate that, in 2026, more than 10 million returns will have tips reported on Form W-2, Form 1099-NEC, Form 1099-K, Form 1099-MISC, or Form 4137.

IV. Economic Effects of the Final Regulations

The Treasury Department and the IRS analyzed the economic effects of the final regulations in enumerating the list of occupations that customarily and regularly received tips on or before December 31, 2024, the clarification that “qualified tips” excludes tips received while performing services that are misdemeanors or felonies under applicable law, and the clarification that “qualified tips” for employees under tip agreements through the TRDA or GITCA programs include tips reported using the tip rates established under their agreement and additional tips reported on Form 4137. The projected economic costs and benefits of these final regulations are small.

i. List of Occupations That Receive Tips

The final regulations enumerate the List of Occupations that Receive Tips, as described in section 70201(h) of the OBBBA. Providing this list will provide clarity for taxpayers who are expected to receive qualified tips. While these clarifications will reduce uncertainty, the Treasury Department and the IRS project that the magnitude of the efficiency gains from publishing these final regulations would be small.

a. Methodology

To create the List of Occupations that Receive Tips, the Treasury Department and the IRS examined confidential income tax return data from tax year 2023; data from the GITCA and related programs; the House Budget Committee report on the OBBBA, H.R. Rept. No. 119–106, at 1502 (2025); guidance and caselaw related to the U.S. Department of Labor (DOL) Fair Labor Standards Act (FLSA); and survey data from the Panel Study of Income Dynamics (PSID) for years 2017, 2019, and 2023 (which asks about the occupation of and tip income received by individuals in 2016, 2018, and 2022, respectively). Based on prior guidance under the FLSA, the Treasury Department and the IRS determined that individuals must have received cash tips more often than occasionally (for example, not only on annual holidays or other celebrations) during a calendar year ending on or before December 31, 2024, in order for their occupation to be considered as having customarily and regularly received tips on or before December 31, 2024.

While reviewing the data, the Treasury Department and the IRS recognized that the occupations identified as having customarily and regularly received tips on or before December 31, 2024, were in the service

industry, and the individuals working in the occupations either interacted with the customers for whom they were providing a service or commonly participated in tip-sharing arrangements with individuals who interacted with customers.

The List of Occupations that Receive Tips includes some occupations, such as cooks and dishwashers, in which individuals may not interact with customers but reported receiving tip income, presumably from tip-sharing arrangements with individuals who do interact with customers. Employees in these occupations have not been considered to customarily and regularly receive tips under the FLSA. As discussed above, there are many differences between the specific language, purpose, and history of the FLSA tip provisions and the language, purpose, and history of the deduction for qualified tips under section 224 of the Code.¹⁹ For instance, while the FLSA contemplates that an employee must have some level of customer interaction to “customarily and regularly” receive tips,²⁰ section 224(d)(3) provides that for purposes of the deduction for qualified tips under section 224, “cash tips” includes both tips received from customers and, in the case of an employee, tips received under any tip-sharing arrangement. As a result, occupations in which employees receive tips from tip-sharing arrangements are considered as having “customarily and regularly” received tips for purposes of the deduction for qualified tips under section 224.

After identifying the occupations that customarily and regularly received tips on or before December 31, 2024, the Treasury Department and the IRS created a categorization system to organize and define the occupations for purposes of the deduction for qualified tips. Each occupation was assigned a TTOC, an occupation title, a short description of the types of services performed by individuals working in the occupation, illustrative examples of specific occupations that would be included under the occupation code, and the related SOC Code(s).

b. Alternative Methods Considered

In addition to the method described above, the Treasury Department and the

IRS considered two alternative methods for creating the List of Occupations that Receive Tips. These alternative methods were (1) using the SOC Code system to define occupations and (2) using only the confidential income tax return data to identify occupations that reported tips. These alternative methods both excluded some occupations that did customarily and regularly receive tips on or before December 31, 2024, and also included some occupations that did not in reality customarily and regularly receive tips on or before December 31, 2024. Therefore, the approach to produce the List of Occupations that Receive Tips included in these final regulations was selected over the alternatives described below.

One of the alternative methods that the Treasury Department and the IRS considered to construct the List of Occupations that Receive Tips was to use the occupation definitions from the SOC Code system.²¹ However, the Treasury Department and the IRS determined that several of the detailed SOC occupations were not sufficiently detailed to separate occupations that should be included on the List of Occupations that Receive Tips, from those that should not. For example, the SOC Code for “Animal Caretakers” is described in the 2018 SOC Code system as an occupation in which individuals “provide care to promote and maintain the well-being of pets and other animals that are not raised for consumption.” The specific occupations that are provided as illustrative examples for this SOC Code include both pet caretakers and zookeepers. Pet caretakers provide a service to individual customers, personally interact with customers, and commonly receive tips on a frequent basis. Therefore, they would be considered an occupation that customarily and regularly receives tips. Zookeepers, on the other hand, provide a service to animals but not directly to customers. Many, if not most, zookeepers do not interact with zoo customers, and zookeepers do not receive tips on a frequent basis. Zookeeper is therefore not an occupation that customarily and regularly receives tips. Thus, if the “Animal Caretakers” SOC Code were

included in the list of occupations that customarily and regularly receive tips, then zookeepers would become part of the list via their corresponding SOC Code, even though they do not customarily and regularly receive tips. Thus, using the SOC Code system alone was not sufficient for creating the List of Occupations that Receive Tips.

For the method that was selected instead of using the SOC Code system, the Treasury Department and the IRS created a new categorization system. The descriptions and illustrative examples for the occupation codes in this new system often mirror their SOC Code counterparts, and it includes the SOC Code(s) that are related to each TTOC occupation. Of the 867 detailed SOC Codes in the 2018 SOC Code system, 77 are related to at least one TTOC occupation.

A second alternative method that the Treasury Department and the IRS considered was to use only confidential income tax return data to identify occupations that customarily and regularly received tips on or before December 31, 2024. This data includes reported tips from Form W-2 and Form 4137 and the occupation that the taxpayer (the primary filer and, if married filing jointly, the spouse) self-reports next to their signature on Form 1040. Individuals in some occupations, such as rideshare drivers, often operate as independent contractors rather than employees and do not receive Form W-2 or file Form 4137. Thus, using only the income tax return data would have omitted these occupations, even though individuals in such occupations did in fact regularly and customarily receive tips on or before December 31, 2024. In addition, the analysis of the income tax return data may have incomplete information on certain occupations due to variations in how taxpayers choose to self-report their occupation on Form 1040. For example, the self-reported occupation may have typos or abbreviations, or taxpayers may write multiple occupations separated by a comma or a slash mark, like “Occupation 1/Occupation 2.”²² These variations in how taxpayers reported

²² Taxpayers have a single line to report their occupation on the Form 1040. If they have multiple occupations, they may write the occupation for only one of their jobs or they may write multiple occupations. However, when analyzing the tax return data, it would be difficult to determine to which job any reported tips should be assigned when a taxpayer has multiple jobs. Therefore, the Treasury Department and the IRS limited the main analysis of the tax return data to taxpayers with only one job. However, even among this sample, some taxpayers may write both the occupation from their job and a title for a role where they may not receive income, such as “Student/Occupation.”

¹⁹ See *supra*, “Comments on the Methodology Used to Construct the List of Occupations that Receive Tips.”

²⁰ See *Montano v. Montrose Rest. Assocs.*, 800 F.3d 186, 189–194 (5th Cir. 2015) (holding that a factfinder could determine that an employee did not “customarily and regularly receive tips,” despite the fact that the employer included him in a tip pool).

²¹ The SOC Code system is published by the Executive Office of the President, Office of Management and Budget. The SOC Code system is a federal statistical standard used by Federal agencies to classify workers into occupational categories for the purposes of collecting, calculating, or disseminating data. See Office of Management and Budget. (2018). Standard Occupational Classification Manual. U.S. Government Publishing Office. This manual and other related SOC Code documents can be found at <https://www.bls.gov/soc>.

their occupation on Form 1040 made it difficult for the data analysis to capture all taxpayers with a given occupation (in the sense of what job they actually performed, rather than what they wrote on the Form 1040) together. This was particularly problematic for certain occupations that have more variations in how they were reported.

Due to these limitations, the Treasury Department and the IRS rejected the method of only using the tax return data to create the List of Occupations that Receive Tips. Instead, the tax return data was supplemented with data from the GITCA and related programs; the House Budget Committee report on the OBBBA, H.R. Rept. No. 119–106, at 1502 (2025); guidance and caselaw related to the DOL FLSA; and survey data from the PSID.

c. Statistics on Reported Tip Income in Tax Return Data

Table A below contains the List of Occupations that Receive Tips and statistics on their reported tip income. The table is organized by Treasury Tipped Occupation Code (TTOC) and contains the TTOC Occupation Title and the Related Standard Occupation

Classification (SOC) Code(s) (Related SOC Code(s)). (As previously described, the List of Occupations that Receive Tips in Table 1 of the final regulations also includes descriptions and illustrative examples of each TTOC occupation.) Table A summarizes taxpayer information from Tax Year 2023 on employees who have a single job, meaning they received only one Form W–2; did not file Schedule C, “Profit or Loss from Business (Sole Proprietorship),” or Schedule F, “Profit or Loss from Farming;” and did not have non-passive income from a partnership or an S-corporation on Schedule E, “Supplemental Income and Loss (From rental real estate, royalties, partnerships, S corporations, estates, trusts, real estate mortgage investment conduits, etc.).”²³

Table A shows the percentage of individuals within the Related SOC Code(s)²⁴ who have at least \$100 of tips reported on Form W–2 or Form 4137. For example, 82.8 percent of individuals who had the SOC Code related to the TTOC Occupation Title of “Bartenders” had at least \$100 of tips reported on Form W–2 or Form 4137.

The table shows the amount of reported tips of individuals in the Related SOC Code(s) as a percentage of all reported tips. The numerator of the percentage is the amount of reported tips of individuals in the Related SOC Code(s) who had any tips reported on Form W–2 or Form 4137. The denominator is the amount of reported tips of all individuals, regardless of whether their occupation could be mapped to a SOC Code or if their SOC Code is related to a TTOC. For example, 34.3 percent of all reported tips are from individuals who had the SOC Code related to the TTOC Occupation Title of “Wait Staff.”

Lastly, Table A shows reported tips as a percent of wage compensation for individuals in Related SOC Code(s) who had reported tips. Wage compensation is the sum of wages, tips, and other compensation reported in Box 1 of Form W–2 and unreported tips from line 4 of Form 4137. For example, among individuals with SOC Codes related to the TTOC Occupation Title of “Gambling Dealers” who had reported tips on Form W–2 or Form 4137, reported tips were 70.7 percent of wage compensation.

TABLE A—REPORTED TIPS OF SINGLE-JOB HOLDERS, TAX YEAR 2023

Treasury tipped occupation code (TTOC)	TTOC occupation title	Percent with reported tips ¹	Percent of all reported tips ²	Reported tips as percent of wages of tipped workers ³	Related standard occupational classification code (related SOC code)
Beverage & Food Service					
101	Bartenders	82.8	9.8	63.4	35–3011
102	Wait Staff	74.5	34.3	63.5	35–3031
103	Food or Beverage Servers, Nonrestaurant	30.4	0.1	33.0	35–3041
104	Dining Room and Cafeteria Attendants and Bartender Helpers.	38.9	1.0	44.8	35–9011
105	Chefs and Cooks	12.8	2.0	17.1	35–1011, 35–2011, 35–2013, 35–2014, 35–2019
106	Food Preparation Workers	21.4	3.3	33.5	35–1012, 35–2021, 35–9099
107	Fast Food and Counter Workers	40.1	1.4	17.9	35–3023
108	Dishwashers	11.0	0.1	15.8	35–9021
109	Host Staff, Restaurant, Lounge, and Coffee Shop	46.3	0.8	35.3	35–9031
110	Bakers	12.0	0.1	14.7	51–3011
Entertainment & Events					
201	Gambling Dealers	70.9	4.3	70.7	39–3011, 39–1013
202	Gambling Change Persons and Booth Cashiers	78.0	0.4	64.8	41–2012
203	Gambling Cage Workers	37.6	0.2	57.7	43–3041
204	Gambling and Sports Book Writers and Runners	30.0	*	43.3	39–3012

²³ Since tips are reported separately from other compensation for employees but not for the self-employed in the current tax return data, these screening criteria that limit the sample to employees with a single job were utilized to better illuminate the link between the self-reported occupations and reported tips.

²⁴ Table A shows statistics based on the Related SOC Code(s), not on the TTOC, which may differ from the Related SOC Code(s). For example, the statistics listed under TTOC 506 (Pet and Show

Animal Caretakers) shows the statistics for all taxpayers in the Related SOC Code 39–2021 (Animal Caretakers), including taxpayers whose occupations are not included in TTOC 506, such as zookeepers. As described in the preamble to the proposed regulations, some SOC Codes were narrowed in the creation of the TTOC occupation. Certain occupations grouped in the same SOC Code with non-tipped occupations were segregated from these non-tipped occupations and provided their own TTOC occupation category. Therefore, the

lower percentages for certain TTOC occupation categories may be because the data on the percentage of individuals reporting tips is for the wider related SOC Code, not for the narrower TTOC occupation. In addition, that data included in Table A reflects only data for employees and does not provide tipping data for independent contractors. The lack of representation for tipped independent contractors may skew the percentage of individuals reporting tips lower in certain occupations.

TABLE A—REPORTED TIPS OF SINGLE-JOB HOLDERS, TAX YEAR 2023—Continued

Treasury tipped occupation code (TTOC)	TTOC occupation title	Percent with reported tips ¹	Percent of all reported tips ²	Reported tips as percent of wages of tipped workers ³	Related standard occupational classification code (related SOC code)
205	Dancers	8.8	*	54.3	27–2031
206	Musicians and Singers	2.9	*	36.8	27–2042
207	Disc Jockeys, Except Radio	15.7	*	44.9	27–2091
208	Entertainers and Performers	7.9	*	52.0	27–2099
209	Digital Content Creators	7.9	*	52.0	27–2099
210	Ushers, Lobby Attendants, and Ticket Takers	3.1	*	11.6	39–3031
211	Locker Room, Coatroom, and Dressing Room Attendants.	12.0	*	19.1	39–3093
Hospitality & Guest Services					
301	Baggage Porters and Bellhops	7.0	0.1	18.6	39–6011
302	Concierges	3.7	*	11.7	39–6012
303	Hotel, Motel, and Resort Desk Clerks	11.7	0.7	42.8	43–4081
304	Maids and Housekeeping Cleaners	2.7	0.1	10.6	37–2012
Home Services					
401	Home Maintenance and Repair Workers	0.5	0.1	16.1	49–9071, 49–9098, 49–9099, 49–9063, 49–2097, 51–7021
402	Home Landscaping and Groundskeeping Workers	0.5	*	14.0	37–3011
403	Home Electricians	0.1	*	10.6	47–2111
404	Home Plumbers	0.2	*	5.1	47–2152
405	Home Heating and Air Conditioning Mechanics and Installers.	0.2	*	4.0	49–9021
406	Home Appliance Installers and Repairers	1.8	*	1.9	49–9031
407	Home Cleaning Service Workers	2.7	0.1	10.6	37–2012
408	Locksmiths	2.0	*	3.1	49–9094
409	Roadside Assistance Workers	0.2	*	10.8	49–3023, 53–3032
Personal Services					
501	Personal Care and Service Workers	0.6	0.1	31.1	31–1122, 39–9099
502	Private Event Planners	6.6	0.1	18.0	13–1121
503	Private Event and Portrait Photographers	2.3	*	22.0	27–4021
504	Private Event Videographers	*	*	*	27–4031
505	Event Officiants	0.2	*	16.8	21–2011
506	Pet and Show Animal Caretakers	19.1	0.3	16.2	39–2021
507	Tutors	0.5	*	34.5	25–3041
508	Nannies and Babysitters	0.7	*	28.8	39–9011
509	Visual Artists	3.3	*	28.4	27–1013
510	Floral Designers	4.3	*	7.4	27–1023
Personal Appearance & Wellness					
601	Skincare Specialists	54.7	0.5	24.4	39–5094
602	Massage Therapists	55.8	0.6	25.7	31–9011
603	Barbers, Hairdressers, Hairstylists, and Cosmetologists.	52.4	3.2	22.7	39–5012, 39–5011
604	Shampooers	*	*	*	39–5093
605	Manicurists and Pedicurists	36.2	0.3	14.9	39–5092
606	Eyebrow and Eyelash Technicians	53.2	3.0	22.6	39–5012
607	Makeup Artists	13.1	*	14.8	39–5091
608	Exercise Trainers and Group Fitness Instructors	1.0	*	25.8	39–9031
609	Tattoo Artists and Piercers	11.1	*	15.8	27–1019
610	Tailors	0.8	*	15.9	51–6052
611	Shoe and Leather Workers and Repairers	*	*	*	51–6041
Recreation & Instruction					
701	Golf Caddies	8.0	*	27.9	39–3091
702	Self-Enrichment Teachers	1.9	*	7.5	25–3021
703	Recreational and Tour Pilots	*	*	*	53–2012
704	Tour Guides	14.2	*	17.1	39–7011
705	Travel Guides	13.3	*	16.2	39–7012
706	Sports and Recreation Instructors	1.9	*	7.5	25–3021

TABLE A—REPORTED TIPS OF SINGLE-JOB HOLDERS, TAX YEAR 2023—Continued

Treasury tipped occupation code (TTOC)	TTOC occupation title	Percent with reported tips ¹	Percent of all reported tips ²	Reported tips as percent of wages of tipped workers ³	Related standard occupational classification code (related SOC code)
Transportation & Delivery					
801	Parking and Valet Attendants	17.4	0.1	21.5	53-6021
802	Taxi and Rideshare Drivers and Chauffeurs	24.9	*	21.2	53-3054
803	Shuttle Drivers	16.7	0.1	28.0	53-3053
804	Goods Delivery People	3.7	0.5	30.0	53-3031
805	Personal Vehicle and Equipment Cleaners	4.8	*	12.4	53-7061
806	Private and Charter Bus Drivers	0.7	*	9.9	53-3052
807	Water Taxi Operators and Charter Boat Workers	*	*	*	53-5022
808	Rickshaw, Pedicab, and Carriage Drivers	0.8	*	21.4	53-6099
809	Home Movers	2.5	2.8	32.8	53-7062
810	Gas Pump Attendant	0.7	*	15.4	53-6031
Total			67.5 ⁴	44.6	

Notes: Data are for Tax Year 2023. An * indicates a share of less than 0.1% or a small cell size.

¹ Percentage of individuals within the Related SOC Code(s) who have at least \$100 of tips reported on a Form W-2 or Form 4137 ("reported tips").

² Reported tips of individuals in Related SOC Code(s) as a percentage of all reported tips. The denominator includes all individuals regardless of whether their occupation could be mapped to a SOC Code or if their SOC Code is related to a TTOC code.

³ Reported tips of individuals in Related SOC Code(s) as a percentage of wages of individuals with tips in Related SOC Code(s). The denominator includes wages of individuals in Related SOC Code(s) only if they report tips.

⁴ Occupation codes are matched to SOC Codes, which are then related to TTOC Occupation Titles, using the self-reported character strings in the "Your occupation" box next to the signature box on the Form 1040. The occupation box does not affect a taxpayer's tax liability, and taxpayers with a single Form W-2 sometimes enter an occupation (character string) that does not correspond to the Form W-2. For example, a student who was also a bartender might have entered "Student" in the occupation box, or they may have misspelled "bartender" as "batrender". In either case, we would not be able to match the "Student" or "batrender" who received tips to a TTOC code. These data shortcomings are the primary reason that the percentage of all reported tips for occupations listed in the table sum to only 67.4%.

Source: Office of Tax Analysis, December 18, 2025.

d. Economic Effects

In general, OBBBA granted taxpayers the deduction for income earned in the form of qualified tips. In the absence of the list enumerated by these final regulations, two taxpayers with otherwise similar tax situations would face uncertainty as to whether this tax deduction applies to their situation. In the absence of this guidance, these taxpayers might make different choices as to whether their tips qualify for the deduction, and, therefore, face different tax liability. By enumerating the List of Occupations that Receive Tips, these final regulations ensure that these two taxpayers face the same tax treatment.

Consider an example, where Employee A is a hairstylist and Employee B is a makeup artist, both working at Beauty Salon 1. Employee A and Employee B each receive \$10,000 in tips from customers at Beauty Salon 1. The House Budget Committee report on the OBBBA, H. Rept. 119-106, at 1502 (2025) included hairstylists but not makeup artists in its examples of occupations that traditionally and customarily²⁵ received tips on or before

December 31, 2024. Thus, prior to reading the guidance in these final regulations, Employee B might have been unsure whether their occupation as a makeup artist makes them eligible to claim the deduction for their qualified tips. By enumerating this list, Employee A and Employee B have clarity that they are both eligible to use the \$10,000 in tips that they receive while working at Beauty Salon 1 for purposes of the deduction in section 224 (assuming that all other requirements to claim the deduction are satisfied).

Some taxpayers may reclassify their occupation as described on their Form 1040 to fall under a category that appears on the List of Occupations that Receive Tips. This reclassification would merely be a relabeling of their reported occupation and does not constitute a meaningful economic change. Due to the tax preference granted by the statute, some taxpayers may genuinely change occupations to one which appears on the List of Occupations that Receive Tips. This effect is ascribed to the statute.

revised to refer to occupations that customarily and regularly receive tips.

ii. Illegal Activity

The final regulations clarify that the term "qualified tips" does not include tips that were received while performing a service that is a felony or misdemeanor under applicable law. For example, tips received while performing services in human trafficking, exotic pet smuggling, counterfeiting or fencing stolen goods, drug trafficking, drug dealing, and unlicensed sales that violate the applicable law would not be eligible for the deduction for qualified tips. The Treasury Department and the IRS do not have sufficient data to determine the behavioral effects of the clarification that the tips are excluded from the definition of "qualified tips" if they were earned while performing illegal activities. The Treasury Department and the IRS also do not have readily available data and models to assess the economic costs and benefits of excluding these tips from the definition of "qualified tips," but the economic impact is expected to be low.

For example, consider Employee C who works as a bartender but does not have the license or certification that is required based on the applicable laws, and these laws specify that serving alcohol without a license is a misdemeanor. They receive \$10,000 in tips during the year while serving

²⁵ Initial drafts of the OBBBA legislation contemplated a deduction for tips received by individuals in occupations that traditionally and customarily receive tips, but this language was later

alcohol at a bar. “Bartender” is on the List of Occupations that Receive Tips, but serving alcohol as a bartender without the proper license violates the applicable law. Because the final regulations clarify that the definition of “qualified tips” excludes tips received while performing services that violate the applicable law, Employee C is aware that their \$10,000 in tips received while serving alcohol without a license are not qualified tips, and so they cannot claim the deduction for these tips.

Alternatively, consider a different example where Restaurant 2 includes a bar that serves alcohol but does not have the liquor license required by the applicable laws. Employee D works on the wait staff at Restaurant 2 and does not serve alcohol, which the applicable laws allow. Employee D receives \$10,000 in tips while waiting tables at Restaurant 2. They satisfy all other requirements to claim the deduction under section 224. Because the final regulations clarify that “qualified tips” exclude tips received while performing services that are illegal under applicable law, and the services that Employee D provided as a wait person were legal, Employee D understands that their \$10,000 in tips are considered “qualified tips” and they can claim the deduction accordingly.

The clarification in the final regulations, that tips are not considered “qualified tips” if they were received while performing services that are illegal under applicable law, provides clarity for taxpayers about whether their tips qualify for the tax deduction under section 224, as instituted by the OBBBA.

iii. Employees Participating in Voluntary Tip Reporting Programs With Tip Rates

The final regulations clarify that employees who enter into a tip agreement through the TRDA or GITCA program may determine the amount of their qualified tips using applicable tip rates in their agreement (as these tips are reported on Form W-2), as well as amounts reported to the IRS on Form 4137. This would not affect the behavior of employees in agreements under the TRDA or GITCA programs as they are required to report their tips (regardless of whether they are eligible for the deduction under section 224) using average tip rates for their occupational category that their employer and the IRS have established.

For example, suppose Employee E and Employee F both work as gambling dealers at Casino 3, and they both have a tip agreement as part of the GITCA program. Employee E receives \$11,000 in tips for the year, and Employee F

receives \$12,000 in tips. The tip rate established by the IRS and their employer for their occupation in the tip agreement requires them to report \$10,000 in tips. The Forms W-2 for Employee E and Employee F from Casino 3 each report \$10,000 in tips. Due to the clarification in the final regulations about the definition of “qualified tips” for employees under a tip agreement through the TRDA or GITCA program, Employee E and Employee F each understand that they may claim a deduction for \$10,000 in qualified tips (if the other requirements of section 224 are met) as those tips were reported to the IRS and Casino 3 in accordance with the tip rate established in their tip agreement.

Some employees under a tip agreement through the TRDA or GITCA programs may decide to report the full amount of their tips (in excess of the tip rate established in their tip agreement) to the IRS on Form 4137 or to their employer. These employees would use that full amount as qualified tips for the deduction under section 224. Any change in the reporting of tip income in excess of the established tip rates is ascribed to the statute, which creates the deduction for qualified tips that are reported on Form W-2 or Form 4137 (as well as Form 1099-NEC, Form 1099-K, and Form 1099-MISC).

iv. Summary

Based on the available models and data, the Treasury Department and the IRS estimate that the economic costs and benefits of the final regulations would be small.

II. Paperwork Reduction Act

This final regulation does not create new collection requirements, as defined under the Paperwork Reduction Act (44 U.S.C. 3501–3520), and does not alter any previously approved OMB information collection requirements and their associated burden.

III. Regulatory Flexibility Act

The Secretary of the Treasury certifies that these final regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that these regulations do not impose any new requirements on small entities but rather provide to individuals rules for claiming the deduction under section 224 of the Code by specifying the scope of affected occupations as those contained in the proposed regulations and providing clarity on the definition of qualified tips. Because the regulation

does not directly impact small entities a Regulatory Flexibility Act (5 U.S.C. chapter 6) analysis is not required.

One commenter asked that the final regulations take special account of the needs of small businesses and that the final regulations not certify that the rule will not have a significant impact on a substantial number of small entities if the final regulations provide details concerning recordkeeping or other obligations of employers. These final regulations do not provide information or instructions concerning the recordkeeping and other obligations of employers and for this reason they have been certified not to have a significant impact on a substantial number of small entities.

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, the proposed regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business. No comments were received.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These final regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

VI. Executive Order 13132: Federalism

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these final regulations is the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry for § 1.224–1 in numerical order to read in part as follows:

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

§ 1.224–1 also issued under 26 U.S.C. 224(d)(2)(C) and (g) and sec. 70201(h) of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act.

* * * * *

■ **Par. 2.** Add § 1.224–1 under the undesignated center heading “Additional Itemized Deductions for Individuals” to read as follows:

§ 1.224–1 Qualified tips.

(a) *In general.* Under section 224(a) of the Internal Revenue Code (Code), there shall be allowed a deduction under section 63(b) of the Code for an amount equal to the qualified tips received by an individual during the taxable year that are included separately on statements furnished to the individual pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section 6051(a)(18) of the Code, or reported by the taxpayer on Form 4137, *Social Security and Medicare Tax on Unreported Tip Income* (or successor).

(b) *Deduction limitations—(1) In general.* The amount allowed as a deduction under section 224(a) and paragraph (a) of this section for any taxable year shall not exceed \$25,000, regardless of filing status.

(2) *Limitation based on adjusted gross income.* After the application of the limitation in paragraph (b)(1) of this section, the amount allowable as a deduction under section 224(a) and paragraph (a) of this section shall be further reduced (but not below zero) by \$100 for each \$1,000 by which the taxpayer’s modified adjusted gross

income exceeds \$150,000 (\$300,000 in the case of a joint return). For purposes of this paragraph (b)(2), *modified adjusted gross income* means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, section 931, or section 933 of the Code.

(3) *Examples.* The following examples illustrate the rules of paragraphs (b)(1) and (2) of this section.

(i) *Example 1.* Employee A satisfies all the requirements under section 224 and Employee A’s filing status for 2025 is single. A received \$26,000 in qualified tips in 2025. Since this is greater than the \$25,000 limitation in paragraph (b)(1) of this section, the \$26,000 qualified tip amount is first reduced from \$26,000 to \$25,000. A’s modified adjusted gross income for 2025 is \$200,000. The qualified tip amount is further reduced (but not below zero) by \$100 for each \$1,000 by which A’s modified adjusted gross income exceeds \$150,000 (the threshold for a single filer). A’s modified adjusted gross income exceeds \$150,000 by \$50,000. To calculate the deduction, A first divides \$50,000 by \$1,000 to get 50. Thus, A’s deduction is further reduced under section 224(b)(2) by \$5,000 (\$100 × 50), from \$25,000 to \$20,000.

(ii) *Example 2.* Employee B satisfies all the requirements under section 224 and Employee B’s filing status for 2025 is single. B received \$10,000 in qualified tips in 2025. Since this amount is less than \$25,000, the limitation in paragraph (b)(1) of this section does not apply. B’s modified adjusted gross income for 2025 is \$180,000. B’s deduction is reduced (but not below zero) by \$100 for each \$1,000 by which B’s modified adjusted gross income exceeds \$150,000 (the threshold for a single filer). B’s modified adjusted gross income exceeds \$150,000 by \$30,000. To calculate the deduction, B first divides \$30,000 by \$1,000 to get 30. Thus, B’s deduction under section 224(b)(2) is reduced by \$3,000 (\$100 × 30), from \$10,000 to \$7,000.

(iii) *Example 3.* Taxpayers C and D are married, as defined in section 7703 of the Code, and they file a joint income tax return. They both work in occupations that customarily and regularly received tips on or before December 31, 2024, and satisfy all other requirements under section 224. C receives \$15,000 in qualified tips in 2025, and D receives \$20,000 in qualified tips in 2025. Since the combined amount of their qualified tips is greater than the \$25,000 limitation in paragraph (b)(1) of this section, the total qualified tip amount is first reduced

from \$35,000 to \$25,000. C and D’s modified adjusted gross income for 2025 is \$200,000. Since this amount is less than the \$300,000 modified joint adjusted gross income threshold for joint filers, the limitation in paragraph (b)(2) of this section does not apply and no further reduction in the qualified tip amount is necessary.

(c) *Qualified tips defined—(1) In general.* Subject to the requirements in this paragraph (c), *qualified tips* are amounts received as cash tips (as defined in paragraph (c)(2) of this section) by an individual in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided in paragraph (h) of this section.

(2) *Cash tips defined.* For purposes of paragraph (c)(1) of this section, *cash tips* are tips received, directly or indirectly, from payors, as defined in paragraph (c)(5) of this section, including, in the case of an employee, tips received through a mandatory or voluntary tip-sharing arrangement, such as a tip pool, that are paid in a cash medium of exchange, including by cash, check, credit card, debit card, gift card, tangible or intangible tokens that are readily exchangeable for a fixed amount in cash (such as casino chips), and any other form of electronic settlement or mobile payment application that is denominated in cash. For purposes of this paragraph (c)(2), cash tips also include amounts paid in foreign currency. Cash tips do not include items paid in any medium other than cash, such as event tickets, meals, services, or other assets that are not exchangeable for a fixed amount in cash. For purposes of this paragraph (c)(2), cash tips also do not include digital assets as defined in section 6045(g)(3)(D) of the Code and § 1.6045–1(a)(19).

(3) *Tips defined.* For purposes of paragraph (c)(2) of this section, tips are amounts paid by payors, as defined in paragraph (c)(5) of this section, for services that are in excess of the amount agreed to, required, charged, or otherwise reasonably expected to have to be paid for the services in an arm’s-length transaction. Superficial or nominal tokens of appreciation from the tip recipient that are negligible in value, such as a written message of thanks sent to the recipient or publicly displayed, do not alter the nature of the contribution as a qualified tip.

(4) *Amounts must be paid voluntarily.* Amounts are qualified tips only to the extent they are paid voluntarily and without any consequence in the event of nonpayment (including any impact on the scope or cost of service), are not the subject of negotiation, and are

determined by the payor. Qualified tips must be paid without compulsion. Thus, service charges, automatic gratuities and any other mandatory amounts automatically added to a customer's (*i.e.*, the payor's) bill by the vendor or establishment are not qualified tips, even if the amounts are subsequently distributed to employees. Any amount voluntarily paid in excess of such mandatory amounts is a qualified tip if all other requirements for a qualified tip under this section are met. If a customer is expressly provided an option to disregard or modify amounts (including to zero) added to a bill, such amounts are not mandatory amounts.

(5) *Payor defined.* For purposes of this section, "payor" means the ultimate recipient of the services. In most cases, this is the customer, client, or other service recipient. An entity, such as an employer, a third party settlement organization, or a sole proprietorship or single-member limited liability company through which a tip recipient is doing business, that acts as conduit to remit a tip initially paid by a customer, client, or service recipient to the tip recipient, is not a payor of the tip for purposes of this section.

(6) *Employees participating in voluntary tip reporting programs with tip rates.* Employees who enter into a Tipped Employee Participation Agreement as part of the Tip Reporting Determination Agreement (TRDA) program or a Model Gaming Employee Tip Reporting Agreement as part of the Gaming Industry Tip Compliance Agreement (GITCA) program may determine the amount of qualified tips using the applicable tip rate in their agreement (and amounts reported on Form 4137 (or successor)) in lieu of reporting actual tips received. The use of the TRDA or GITCA program to determine qualified tips for purposes of this section will not affect the tip audit protection otherwise applicable to the employee's agreement. Employees participating in the TRDA or GITCA program remain subject to all remaining requirements in section 224 and this section regarding eligibility for the deduction.

(7) *Illegal activity.* Any amount received for a service the performance of which is a felony or misdemeanor under applicable law is not a qualified tip.

(8) *Prostitution.* Any amount received for prostitution services is not a qualified tip.

(9) *Pornography.* Any amount received for pornographic activity is not a qualified tip.

(10) *Managers and Supervisors.* Amounts received by a manager or

supervisor through a voluntary or mandatory tip-sharing arrangement such as a tip pool are not qualified tips.

However, amounts received directly by a supervisor or manager for services they provided in the course of duties performed in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided in paragraph (h) of this section, are qualified tips if all other requirements of this section are met.

(11) *Anti-abuse.* An amount is not a qualified tip if, based on all relevant facts and circumstances, such amount represents a recharacterization of wages or payments for goods or services as tips for purposes of claiming the deduction.

(i) Facts and circumstances that may indicate a recharacterization of wages, payment for services, or other income as tips include the following:

(A) A charge for services shown on an invoice is less than the payment from the payor shown on a related receipt or information return, and the cash tip reported on the receipt or information return is in an amount that approximates the difference between the charge amount shown on the invoice and payment amount on the receipt or information return; or

(B) A significant shift in historical tipping or payment practices between the payor and the tip recipient.

(ii) When the following facts and circumstances are present, there is an irrebuttable presumption that the amount paid is a recharacterization of wages, payment for services, or other income as tips, and therefore cannot be a qualified tip:

(A) The employer of an employee is the payor, as defined in paragraph (c)(5) of this section, of a cash tip received by the employee; or

(B) The tip recipient has a direct ownership interest in the payor, as defined in paragraph (c)(5) of this section, of a cash tip. For purposes of this paragraph (c)(11)(ii)(B), an ownership interest means in the case of a corporation, ownership (by vote or value) of five percent or more of the stock in such corporation; in the case of a partnership, ownership of five percent of the profits interest or capital interest in such partnership, or in any other case, ownership of more than five percent of the beneficial interests in the entity. An ownership interest is tested as of the date the tip is received. For purposes of this paragraph (c)(11)(ii)(B), an ownership interest is a direct ownership interest if it is an ownership interest held directly by the tip recipient or if it is an ownership interest held through an entity disregarded as separate from its owner for Federal

income tax purposes; an ownership interest held through a qualified subchapter S subsidiary as defined in section 1361(b)(3) of the Code; an ownership interest held through a grantor trust (under subpart E of part 1 of subchapter J of chapter 1 of the Code); or an ownership interest held through a custodian, broker, nominee, agent, or other similar intermediary.

(12) *Examples.* The following examples illustrate the rules of this paragraph (c). Unless otherwise indicated, each example assumes that other requirements for claiming the deduction under section 224 are satisfied and that references to a customer are references to a payor, as defined in paragraph (c)(5) of this section.

(i) *Example 1.* Restaurant W's menu specifies that an automatic 18% charge will be added to all bills for parties of six or more customers. Customer D's bill for food and beverages for her party of six includes the 18% charge on the "tip line" and the total bill includes this amount. Restaurant W distributes this amount to the waitstaff and bussers. Customer D did not determine the amount of the additional charge, nor was Customer D expressly provided an option to disregard or modify the amount. Customer D did not make the payment free from compulsion. Under these circumstances, the 18% charge is not a qualified tip for purposes of the deduction under section 224.

(ii) *Example 2.* The facts are the same as in paragraph (c)(12)(i) of this section (*Example 1*) except the bill has a line labeled "additional tip amount." In this case, Customer D adds on the "additional tip line" an amount equal to 2% of the price for food and beverages. As in paragraph (c)(12)(i) of this section (*Example 1*), the 18% charge is not a qualified tip for the purposes of the deduction under section 224. However, the 2% additional amount is a qualified tip for the purposes of the deduction under section 224, because Customer D voluntarily paid the 2% additional amount without compulsion.

(iii) *Example 3.* Customer E dines at Restaurant X with a party of eight people. E's bill for food and beverages for the party of eight includes a "recommended tip" equal to 18% of the price for food and beverages. However, there is a line for the customer to subtract (including to zero) or add to the recommended tip amount before paying the bill. Customer E subtracts 3% from the recommended tip amount resulting in a tip of 15% of the price for food and beverages. Customer E had a right to determine the additional amount, and he was expressly provided the option to

disregard or modify the “recommended tip” amount. Under these circumstances, the recommended 18% amount is not a service charge. Rather, the 15% amount that the customer voluntarily paid without compulsion is a qualified tip for purposes of the deduction under section 224.

(iv) *Example 4.* Customer F has a meal at Restaurant Y. The server presents the bill for the meal to Customer F on an electronic handheld point of sale (POS) device. The POS device includes the charges for each food and beverage item and the applicable tax. The POS device also prompts Customer F to leave a tip and provides the following options for Customer F: 15%, 18%, 20%, other, and no tip. Customer F selects 18% and pays the total balance via credit card through the POS device. Customer F had a right to determine the additional amount, and Customer F was expressly provided the option to leave no tip. Under these circumstances, the 18% amount is a qualified tip. The result would be the same if Customer F were instead prompted with a tip slider that could reduce the tip down to zero; if the tip slider was subject to a minimum floor amount, only amounts above that floor could constitute a qualified tip.

(v) *Example 5.* The facts are the same as in paragraph (c)(12)(iv) of this section (*Example 4*), but the only choices on the POS device are 15%, 18%, and 20%. Customer F must select a “tip amount” before paying the bill. Customer F selects 15% and pays the total balance via credit card through the POS device. Customer F did not voluntarily determine the amount of the additional charge because Customer F was forced to select an amount greater than zero. Customer F was not expressly provided an option to disregard or modify the amounts presented. Customer F did not make the payment free from compulsion. Under these circumstances, the 15% charge is not a qualified tip for purposes of the deduction under section 224.

(vi) *Example 6.* The facts are the same as in paragraph (c)(12)(v) of this section (*Example 5*), but Customer F selects 18% and pays the total balance via credit card through the POS device. Customer F did not voluntarily determine the lowest required amount (15%) of the additional charge because Customer F was forced to select an amount greater than zero. Customer F was not expressly provided an option to disregard or modify the amounts presented. Customer F did not make the payment of 15% free from compulsion. Under these circumstances, 15% of the charge is not a qualified tip for purposes of the deduction under section 224.

However, the 3% additional amount is a qualified tip for the purposes of the deduction under section 224, because Customer F voluntarily, without compulsion, paid the 3% additional amount.

(vii) *Example 7.* Self-employed Painter G is hired by Customer Z to paint Customer Z’s house. Included in the service contract between Painter G and Customer Z is a provision adding a 15% service charge to the total cost of the final bill. After the service contract is signed by both Painter G and Customer Z, Painter G completes the painting services. After the painting services are completed, Customer Z pays the amount agreed upon in the service contract, including the 15% service charge. In addition, Customer Z pays Painter G a cash tip amount, not provided for in the service agreement, equal to 10% of the final bill. The 15% service charge is not a qualified tip because it was included in the service contract before the painting services were provided and Painter G’s performance of the painting services was conditioned on the agreement to pay the 15% service charge. However, because the 10% cash tip amount was not included in the service agreement, and because Customer Z voluntarily paid the 10% cash tip amount without compulsion, the 10% cash tip amount is a qualified tip for purposes of the deduction under section 224. Self-employed Painter G can only deduct the 10% cash tip, however, to the extent the other requirements of the statute are met, including that the 10% cash tip is included on a Form 1099 that Painter G receives.

(viii) *Example 8.* Shuttle Driver S enters into a contract with Customer Q. Under the terms of the contract, Shuttle Driver S will drive Customer Q to the airport for either \$60 (consisting of a \$50 charge and a 20% gratuity) or \$65 (consisting of just the charge for the service with no gratuity). The contract states that an additional tip based on the service provided is welcome. Customer Q selects the first option and pays Shuttle Driver S \$60. After arriving at the airport, Customer Q pays Shuttle Driver S an additional \$5. The 20% gratuity is not a qualified tip because it was not paid voluntarily, and not providing the 20% gratuity would have resulted in Customer Q paying a higher amount. However, the additional \$5 amount added after the service was completed is made without compulsion and is a qualified tip for purposes of this section. Shuttle Driver S can deduct the tip, however, only to the extent the other requirements of the statute are met, including that the tip is included

on an information return furnished to Shuttle Driver S, or properly reported by Shuttle Driver S on Form 4137.

(ix) *Example 9.* The facts are the same as in paragraph (c)(12)(viii) of this section (*Example 8*) except the terms of the contract state that Shuttle Driver S will drive Customer Q to the airport for \$60 and that a recommended 15% tip will be added to the total cost on the bill for convenience. The contract further states that the payment of this recommended tip is subject to the complete discretion of Customer Q and may be increased, decreased or eliminated entirely by Customer Q. After arriving at the airport, Customer Q pays Shuttle Driver S the \$60 and decides to include the recommended 15% tip. The 15% gratuity is a qualified tip because Customer Q had the option to change the tip amount and the option to leave no tip amount at all, with no consequence to the services provided or the cost of the service.

(x) *Example 10.* Landscaper L is self-employed and enters into a contract to install a new patio for Customer O for \$5,000. When the services are complete, Customer O pays Landscaper L \$5,100, and tells Landscaper L that the additional \$100 is a tip for L’s services. Landscaper L records the payment on the business’s books as a charge for \$4,500 for installation of the patio and \$600 as a tip. The amount of the qualified tip is \$100 because this is the amount that was determined by the payor (the customer). The additional \$500 is not a qualified tip because it was not paid voluntarily and was not designated by the payor (the customer). Amounts reclassified by the service provider from the agreed contract price are not qualified tips but are instead part of the charge for services. The additional \$500 also is not a tip because it is not in excess of the amount that was agreed to be paid for L’s services.

(xi) *Example 11.* Digital Content Creator H is self-employed and provides training videos on crafting artificial intelligence-created image prompts. These videos are housed on a digital platform accessible through web browsers and a mobile app. H’s longer and more complex training videos are locked from public viewing, and users of the digital platform can gain access to these training videos only after paying a \$5 contribution to H’s digital platform account, the full amount of which is passed on by the digital platform to H. Because the \$5 contribution is required to access H’s content, this amount is not a qualified tip but rather a payment for services provided, which in this case is the training video. Customer J pays the required \$5 contribution and watches

the training video. Customer J is so satisfied with the content of the training video that Customer J sends an additional \$2 contribution to H's account as a token of appreciation. Because J's \$2 contribution was not required to access H's content, the \$2 contribution is a qualified tip for purposes of the deduction under section 224.

(xii) *Example 12.* Digital Content Creator K is self-employed and live streams cooking videos on a digital platform. K's live streams are available for free to all users of the digital platform. Viewers of the live stream can send comments to K during the live stream, which are displayed in a "chat" window during the live stream. In addition, viewers of K's live streams have the option to contribute a tip, along with a comment of appreciation, to K's digital platform account during a live stream. Viewers that contribute a tip will have their contribution and comment displayed prominently in the chat window. In addition, K occasionally thanks contributors personally during the live stream. Because these contributions are not required to access K's content and because the contributions are voluntarily provided, these contributions are qualified tips for purposes of the deduction under section 224. Superficial or nominal digital tokens of appreciation from the tip recipient that are negligible in value, such as highlighting a contribution and comment in a chat window or personally thanking the contributor, do not alter the nature of the contribution as a qualified tip.

(xiii) *Example 13.* Manager M is a restaurant manager at a restaurant. Customer N dines at the restaurant and is dissatisfied with the quality of the meal provided. Manager M listens to Customer N's complaint about the meal quality and provides resolution in the form of a discounted meal and a gift card. Customer N is very satisfied with Manager M's handling of the situation and leaves a \$5 tip specifically for Manager M. Because Manager M received the tip while performing the duties of a restaurant manager when providing service to Customer N, and because restaurant manager is not an occupation that is included in the table of Occupations that Customarily and Regularly Received Tips on or Before December 31, 2024, provided in paragraph (h) of this section, the \$5 tip paid by Customer N to Manager M is not a qualified tip.

(xiv) *Example 14.* The facts are the same as in paragraph (c)(12)(xiii) of this section (*Example 13*). Manager M

occasionally performs duties as wait staff for the restaurant when the restaurant is crowded. Customer P dines at the restaurant and is waited on by Manager M. When Customer P pays the bill, Customer P pays Manager M a \$5 tip. Tips are not pooled at this restaurant. Because Customer P's tip was paid directly to Manager M while Manager M was performing the duties of wait staff, and because wait staff is an occupation that is included in the table of Occupations that Customarily and Regularly Received Tips on or Before December 31, 2024, provided in paragraph (h) of this section, the \$5 tip paid by Customer P to Manager M is a qualified tip.

(d) *Qualified tips must be reported on an information return—(1) In general.* Except as provided in paragraph (d)(2) of this section, in order to be eligible for the deduction under section 224, qualified tips must be included in the amount of cash tips that are separately reported on a statement furnished to the taxpayer pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section 6051(a)(18), or reported by the taxpayer on Form 4137 (or successor).

(2) *Transition rule for tax year 2025.* In order to be eligible for the deduction under section 224 for taxable years beginning before January 1, 2026, qualified tips must be included in the aggregate amount reported on a statement furnished to the taxpayer pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section 6051(a)(18), or reported by the taxpayer on Form 4137 (or successor), but cash tips do not need to be separately reported on the statement.

(3) *Statements furnished to certain entities.* Statements furnished to a sole proprietorship or a single-member LLC that does not elect to be treated as a corporation for income tax purposes owned by a tip recipient are considered to be furnished to the tip recipient owner of the sole proprietorship or single-member LLC to which the statement was issued, regardless of whether the name of the sole proprietorship or single-member LLC appears as the recipient on the statement.

(e) *Trade or business limitations for tips received in course of trade or business—(1) In general.* In the case of qualified tips received by an individual during any taxable year in the course of a trade or business (other than a trade or business of performing services as an employee) of such individual, such qualified tips shall be deducted only to the extent that the gross income for the taxpayer from such trade or business for

such taxable year (including such qualified tips) exceeds the sum of the deductions (other than the deduction allowed for qualified tips) allocable to the trade or business in which such qualified tips are received by the individual for the taxable year. The deduction allowed for qualified tips is not taken into account for this purpose because it is not a trade or business deduction. Thus, generally, for self-employed taxpayers, the deduction under section 224 for a trade or business is limited to the individual's net income (without regard to the section 224 deduction) from that trade or business.

(2) *Examples.* The following examples illustrate the rule of paragraph (e)(1) of this section.

(i) *Example 1.* Manicurist M is self-employed and owns a nail salon. Manicurist M has no other employment. For the taxable year, Manicurist M has gross income of \$100,000 that consists of \$70,000 of fees for services at the nail salon and \$30,000 of qualified tips. Manicurist M's total deductible expenses (other than the deduction for qualified tips) are \$40,000. Manicurist M's gross income of \$100,000 from the trade or business exceeds the sum of the deductions for that trade or business (other than qualified tips) by \$60,000 (\$100,000 – \$40,000 = \$60,000). Because the maximum deduction under section 224 and paragraph (b)(1) of this section is \$25,000, Manicurist M is permitted to deduct \$25,000.

(ii) *Example 2.* Manicurist O is self-employed and owns a nail salon. Manicurist O has no other employment. For the taxable year, Manicurist O has gross income of \$75,000 that consists of \$55,000 of fees for services at the nail salon and \$20,000 of qualified tips. Manicurist O's total deductible expenses (other than the deduction for qualified tips) are \$60,000. Manicurist O's gross income of \$75,000 from the trade or business exceeds the sum of the deductions from that trade or business by \$15,000 (\$75,000 – \$60,000 = \$15,000). Although Manicurist O received \$20,000 in qualified tips, Manicurist O is allowed a qualified tip deduction of only \$15,000, which is the extent to which Manicurist O's gross income from the trade or business (\$75,000) exceeds the total deductible expenses (other than qualified tips) (\$60,000) from that trade or business.

(f) *Social Security numbers and married individuals—(1) In general.* To claim a deduction under section 224, a taxpayer must include on the taxpayer's tax return the Social Security number (SSN), as defined in section 24(h)(7) of the Code, of the individual who has received the qualified tips. The SSN, as

defined in section 24(h)(7) of the Code, must have been issued before the due date of the income tax return (including extensions) for the calendar year in which the taxpayer is claiming the deduction under section 224.

(2) *Married taxpayers.* Taxpayers who are married, as defined by section 7703, must file a joint return to claim the deduction allowed by section 224. However, to claim the deduction allowed by section 224, married

taxpayers are required to include only the SSN of the taxpayer who has received the tips to claim the deduction, and an SSN is required of both taxpayers only when both have qualified tips for which the deduction is being claimed.

(g) [Reserved]

(h) *Occupations that customarily and regularly received tips on or before December 31, 2024.* The occupations in table 1 to this paragraph (h) customarily and regularly received tips on or before

December 31, 2024. Individuals serving as assistants or apprentices in an occupation are included in that occupation category if they perform the same services as those listed in the occupation description. Subject to the requirements in section 224 and this section, only qualified tips received in connection with the occupations listed in table 1 to this paragraph (h) are eligible for the deduction in section 224(a).

TABLE 1 TO PARAGRAPH (H)—OCCUPATIONS THAT CUSTOMARILY AND REGULARLY RECEIVED TIPS ON OR BEFORE DECEMBER 31, 2024

Treasury Tipped Occupation Code (TTOC)	TTOC occupation title	TTOC occupation description	TTOC illustrative examples	Related standard occupational classification code (related SOC code) ¹
Beverage and Food Service				
101	Bartenders	Mix and serve drinks or other refreshments to patrons, directly or through waitstaff.	Barkeep, mixologist, taproom attendant, sommelier.	35–3011
102	Wait Staff	Take orders and serve food and beverages to patrons at tables in dining establishments or at catered events.	Cocktail waitress, dining car server, banquet staff.	35–3031
103	Food or Beverage Servers, Non-restaurant.	Serve food or beverages to individuals outside of a restaurant environment, such as in hotel rooms, residential care facilities, or cars.	Room service food server, boat hop, beer cart server.	35–3041
104	Dining Room and Cafeteria Attendants and Bartender Helpers.	Facilitate food service. Clean tables; remove dirty dishes; replace soiled table linens; set tables; replenish supply of clean linens, silverware, glassware, and dishes; supply service bar with food; and serve items such as water, condiments, and coffee to patrons.	Bar back, bar helper, busser	35–9011
105	Chefs and Cooks	Direct and may participate in the preparation, seasoning, and cooking of salads, soups, fish, meats, vegetables, desserts, or other foods.	Executive chef, pastry chef, sous chef, fast food cook, private chef, restaurant cook, saucier, food truck cook, banquet cook, caterer, chocolatier, confectioner.	35–1011, 35–2011, 35–2013, 35–2014, 35–2019
106	Food Preparation Workers	Perform a variety of food preparation duties other than cooking, such as preparing cold foods and shellfish, slicing meat, and brewing coffee or tea.	Salad maker, sandwich maker, fruit and vegetable parer, kitchen steward.	35–1012, 35–2021, 35–9099
107	Fast Food and Counter Workers.	Serve customers at counter or from a steam table. Perform duties such as taking orders and serving food and beverages. May take payment. May prepare food and beverages.	Barista, ice cream server, cafeteria server.	35–3023
108	Dishwashers	Clean dishes, kitchen, food preparation equipment, or utensils.	Dish room worker, silverware cleaner.	35–9021
109	Host Staff, Restaurant, Lounge, and Coffee Shop.	Welcome patrons, seat them at tables or in lounge, and help ensure quality of facilities and service.	Maitre d'hôtel, dining room host.	35–9031.
110	Bakers	Mix and bake ingredients to produce breads, rolls, cookies, cakes, pies, pastries, or other baked goods.	Bread baker, cake baker, bagel baker, pastry finisher.	51–3011
Entertainment and Events				
201	Gambling Dealers	Operate gambling games. Stand or sit behind table and operate games of chance by dispensing the appropriate number of cards or blocks to players or operating other gambling equipment. Distribute winnings or collect players' money or chips. May compare the house's hand against players' hands.	Blackjack dealer, craps dealer, poker dealer, roulette dealer, pit clerk.	39–3011, 39–1013
202	Gambling Change Persons and Booth Cashiers.	Exchange coins, tokens, and chips for patrons' money. May issue payoffs and obtain customer's signature on receipt. May operate a booth in the slot machine area and furnish change persons with money bank at the start of the shift, or count and audit money in drawers.	Slot attendant, mutuel teller ..	41–2012
203	Gambling Cage Workers	In a gambling establishment, conduct financial transactions for patrons. Accept patron's credit application and verify credit references to provide check-cashing authorization or to establish house credit accounts. May reconcile daily summaries of transactions to balance books. May sell gambling chips, tokens, or tickets to patrons, or to other workers for resale to patrons. May convert gambling chips, tokens, or tickets to currency upon patron's request. May use a cash register or computer to record transaction.	Casino cashier, cage cashier	43–3041

TABLE 1 TO PARAGRAPH (H)—OCCUPATIONS THAT CUSTOMARILY AND REGULARLY RECEIVED TIPS ON OR BEFORE DECEMBER 31, 2024—Continued

Treasury Tipped Occupation Code (TTOC)	TTOC occupation title	TTOC occupation description	TTOC illustrative examples	Related standard occupational classification code (related SOC code) ¹
204	Gambling and Sports Book Writers and Runners.	Post information enabling patrons to wager on various races and sporting events. Assist in the operation of games such as keno and bingo. May operate random number-generating equipment and announce the numbers for patrons. Receive, verify, and record patrons' wagers. Scan and process winning tickets presented by patrons and pay out winnings for those wagers.	Betting runner, bingo worker, keno runner, race book writer.	39–3012
205	Dancers	Perform dances	Club dancer, dance artist	27–2031
206	Musicians and Singers	Play one or more musical instruments or sing	Instrumentalist, accompanist, lounge singer. Deejay, club DJ	27–2042 27–2091
207	Disc Jockeys, Except Radio	Play prerecorded music for live audiences at venues or events such as clubs, parties, or wedding receptions. May use techniques such as mixing, cutting, or sampling to manipulate recordings. May also perform as emcee (master of ceremonies).		
208	Entertainers and Performers	Entertain audiences with artistic expression	Comedian, clown, magician, street performer.	27–2099
209	Digital Content Creators	Produce and publish on digital platforms original entertainment and personality-driven content, such as live streams, short-form videos, or podcasts.	Streamer, online video creator, social media influencer, podcaster.	27–2099
210	Ushers, Lobby Attendants, and Ticket Takers.	Assist patrons at entertainment events by performing duties, such as collecting admission tickets and passes from patrons, assisting in finding seats, searching for lost articles, and helping patrons locate such facilities as restrooms and telephones.	Ticket collector, theater usher	39–3031
211	Locker Room, Coatroom, and Dressing Room Attendants.	Provide personal items to patrons or customers in locker rooms, dressing rooms, or coatrooms.	Coat checker, washroom attendant, bathhouse attendant.	39–3093
Hospitality and Guest Services				
301	Baggage Porters and Bellhops.	Handle baggage for travelers at transportation terminals or for guests at hotels or similar establishments.	Hotel baggage handler, curbside airport check-in assistant, doorman.	39–6011
302	Concierges	Assist patrons at hotels or apartment buildings with personal services. May take messages; arrange or give advice on transportation, business services, or entertainment; or monitor guest requests for housekeeping and maintenance.	Hotel guest service agent, activities concierge.	39–6012
303	Hotel, Motel, and Resort Desk Clerks.	Accommodate hotel, motel, and resort patrons by registering and assigning rooms to guests, issuing room keys or cards, transmitting and receiving messages, keeping records of occupied rooms and guests' accounts, making and confirming reservations, and presenting statements to and collecting payments from departing guests.	Front desk clerk, registration clerk.	43–4081
304	Maids and Housekeeping Cleaners.	Perform any combination of light cleaning duties to maintain commercial establishments, such as hotels, in a clean and orderly manner. Duties may include making beds, replenishing linens, cleaning rooms and halls, and vacuuming.	Hotel maid, housekeeping staff.	37–2012
Home Services				
401	Home Maintenance and Repair Workers.	Perform work to keep machines, mechanical equipment, or the structure of a building in repair. May maintain and repair musical instruments, furniture, antiques, and non-fixtures.	Handyman, roofer, window repairer, house painter (interior or exterior), flooring installer, piano tuner, furniture restorer, antique repairer.	49–9071, 49–9098, 49–9099, 49–9063, 49–2097, 51–7021
402	Home Landscaping and Groundskeeping Workers.	Landscape or maintain grounds of property using hand or power tools or equipment. Workers typically perform a variety of tasks, which may include any combination of the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, sprinkler installation, and installation of mortarless segmental concrete masonry wall units.	Lawn mower, gardener, tree trimmer, weed sprayer.	37–3011
403	Home Electricians	Install, maintain, and repair electrical wiring, equipment, and fixtures. Ensure that work is in accordance with relevant codes. May install or service exterior lights, intercom systems, or electrical control systems.	Electrician	47–2111
404	Home Plumbers	Assemble, install, alter, and repair pipelines or pipe systems that carry water, steam, air, or other liquids or gases. May install heating and cooling equipment and mechanical control systems.	Plumber, pipefitter, steamfitter, sprinkler installer.	47–2152

TABLE 1 TO PARAGRAPH (H)—OCCUPATIONS THAT CUSTOMARILY AND REGULARLY RECEIVED TIPS ON OR BEFORE DECEMBER 31, 2024—Continued

Treasury Tipped Occupation Code (TTOC)	TTOC occupation title	TTOC occupation description	TTOC illustrative examples	Related standard occupational classification code (related SOC code) ¹
405	Home Heating and Air Conditioning Mechanics and Installers.	Install or repair heating, central air conditioning, HVAC, or refrigeration systems, including oil burners, hot-air furnaces, and heating stoves.	Air conditioning repairer, heating system installer, chimney sweep.	49–9021
406	Home Appliance Installers and Repairers.	Repair, adjust, or install all types of electric or gas household appliances, such as refrigerators, washers, dryers, and ovens.	Washing machine installer, dishwasher repairer.	49–9031
407	Home Cleaning Service Workers.	Perform any combination of light cleaning duties to maintain private households in a clean and orderly manner. Duties may include making beds, replenishing linens, cleaning rooms and halls, and vacuuming.	House cleaner, pool cleaner, carpet cleaner, window washer.	37–2012
408	Locksmiths	Repair and open locks, make keys, change locks and safe combinations, and install and repair safes.	Safe installer, key maker	49–9094
409	Roadside Assistance Workers.	Provide on-road assistance to drivers whose vehicles have broken down.	Tow truck driver, car battery technician, tire repairer, tire changer, car fuel deliverer.	49–3023, 53–3032
Personal Services				
501	Personal Care and Service Workers.	Provide personalized assistance to individuals with disabilities or illness who require help with personal care and activities of daily living support (for example, feeding, bathing, dressing, grooming, toileting, and ambulation). May also provide help with tasks such as preparing meals, doing light housekeeping, and doing laundry. Work is performed in various settings depending on the needs of the care recipient and may include locations such as their home, place of work, out in the community, at a daytime nonresidential facility, or a residential facility.	Elderly companion, personal care aide, butler, house sitter, personal valet.	31–1122, 39–9099
502	Private Event Planners	Coordinate activities of staff or clients to make arrangements for private events. May provide creative design for décor and invitations.	Wedding planner, party planner.	13–1121
503	Private Event and Portrait Photographers.	Photograph people, landscapes, or other subjects. May use lighting equipment to enhance a subject's appearance. May use editing software to produce finished images and prints.	Wedding photographer, headshot photographer.	27–4021
504	Private Event Videographers	Operate video or film camera to record images or scenes of private events.	Wedding videographer	27–4031
505	Event Officials	Lead and facilitate the ceremony for life events such as weddings or funerals. Ceremonies may be religious or civil services.	Wedding officiant, funeral celebrant, clergy, vow renewal officiant.	21–2011
506	Pet and Show Animal Caretakers.	Feed, water, groom, bathe, exercise, or otherwise provide care to promote and maintain the well-being of pets or show animals.	Pet groomer, pet sitter, pet walker, kennel worker, pet trainer, horse groomer.	39–2021
507	Tutors	Instruct individual students or small groups of students in academic subjects to supplement formal class instruction or to prepare students for standardized or admissions tests. May provide instruction in person or remotely.	Reading tutor, math tutor, language tutor.	25–3041
508	Nannies and Babysitters	Attend to children at businesses and private households. Perform a variety of tasks, such as dressing, feeding, bathing, and overseeing play.	Au pair, child sitter at hotels and gyms.	39–9011
509	Visual Artists	Create original visual artwork using any of a wide variety of media and techniques.	Ice sculptor, caricature sketch artist.	27–1013
510	Floral Designers	Design, cut, and arrange live, dried, or artificial flowers and foliage.	Corsage maker, florist, flower arranger, event florist.	27–1023
Personal Appearance and Wellness				
601	Skincare Specialists	Provide skincare treatments to face and body to enhance an individual's appearance.	Facialist, electrologist, spa esthetician.	39–5094
602	Massage Therapists	Perform therapeutic massages of soft tissues and joints. May assist in the assessment of range of motion and muscle strength or propose client therapy plans.	Masseuse, deep tissue massage therapist, sports massage therapist.	31–9011
603	Barbers, Hairdressers, Hairstylists, and Cosmetologists.	Provide beauty or barbering services, such as cutting, coloring, and styling hair, massaging and treating scalps, trimming beards or giving shaves.	Wig stylist, beautician, hair colorist, hair cutter.	39–5012, 39–5011
604	Shampooers	Shampoo and rinse customers' hair	Scalp treatment specialist, shampoo assistant.	39–5093
605	Manicurists and Pedicurists ..	Clean and shape customers' fingernails and toenails. May polish or decorate nails.	Nail technician, fingernail sculptor, nail painter.	39–5092
606	Eyebrow and Eyelash Technicians.	Enhance and maintain clients' eyebrows using techniques such as threading, waxing, or tweezing. Enhance clients' eyelashes using techniques such as tinting or applying extensions.	Eyebrow waxer	39–5012

TABLE 1 TO PARAGRAPH (H)—OCCUPATIONS THAT CUSTOMARILY AND REGULARLY RECEIVED TIPS ON OR BEFORE DECEMBER 31, 2024—Continued

Treasury Tipped Occupation Code (TTOC)	TTOC occupation title	TTOC occupation description	TTOC illustrative examples	Related standard occupational classification code (related SOC code) ¹
607	Makeup Artists	Design and apply makeup looks	Wedding makeup artist, party makeup artist.	39–5091
608	Exercise Trainers and Group Fitness Instructors.	Instruct or coach groups or individuals in exercise activities for the primary purpose of personal fitness. Demonstrate techniques and form, observe participants, and explain to them corrective measures necessary to improve their skills. Develop and implement individualized approaches to exercise.	Aerobics trainer, yoga instructor, personal trainer.	39–9031
609	Tattoo Artists and Piercers ...	Design and execute tattoos on a client's skin, often using a needle and ink. Create openings in the human body for the insertion of jewelry. May consult clients on aftercare to promote healing and prevent infection.	Tattoo artist, ear piercer, nose piercer.	27–1019
610	Tailors	Design, make, alter, repair, or fit garments	Tailor, seamstress, clothing alterations worker.	51–6052
611	Shoe and Leather Workers and Repairers.	Construct, decorate, or repair leather and leather-like products, such as luggage, shoes, and saddles. May use hand tools.	Cobbler, shoe shiner	51–6041
Recreation and Instruction				
701	Golf Caddies	Assist a golfer during a round of golf by providing practical support and strategic advice. May carry the golfer's bag, manage their clubs, offer guidance on club selection or course strategy.	Golf caddie, golf cart attendant.	39–3091
702	Self-Enrichment Teachers	Teach or instruct individuals or groups for the primary purpose of self-enrichment, rather than for an occupational objective, educational attainment, competition, or fitness.	Knitting instructor, piano teacher, art instructor, dance teacher.	25–3021
703	Recreational and Tour Pilots	Pilot and navigate the flight of fixed-wing aircraft, helicopters, or other airborne vehicle for recreational or touring purposes. Excludes regional national, and international airline pilots, and emergency services pilots.	Helicopter tour pilot, hot air balloon aeronaut, skydiving pilot.	53–2012
704	Tour Guides	Guide individuals or groups on sightseeing tours or through places of interest, such as industrial establishments, public buildings, and art galleries.	Museum guide, sightseeing guide.	39–7011
705	Travel Guides	Plan, organize, and conduct long-distance travel, tours, and expeditions for individuals and groups (covering both indoor and outdoor locations).	Cruise director, river expedition guide.	39–7012
706	Sports and Recreation Instructors.	Teach or instruct individuals or groups for the primary purpose of recreation, rather than for an occupational objective, educational attainment, competition, or fitness.	Diving instructor, ski instructor, tennis teacher, surfing instructor.	25–3021
Transportation and Delivery				
801	Parking and Valet Attendants	Park vehicles or issue tickets for customers in a parking lot or garage. May park or tend vehicles in environments such as a hotel or restaurant. May collect fee.	Parking garage attendant, valet parker.	53–6021
802	Taxi and Rideshare Drivers and Chauffeurs.	Drive a motor vehicle to transport passengers on a planned or unplanned basis.	Cab driver, personal driver, platform/app-based rideshare driver.	53–3054
803	Shuttle Drivers	Drive a motor vehicle to transport passengers on a planned route and scheduled basis. May collect a fare. Excludes taxi and rideshare drivers, chauffeurs, municipal bus drivers, and school bus drivers.	Airport shuttle driver, hotel shuttle driver, rental car shuttle driver.	53–3053
804	Goods Delivery People	Drive truck or other vehicle to deliver goods, such as food products, appliances, or furniture, or pick up or deliver packages. May also take orders or collect payment at point of delivery.	Pizza delivery driver, grocery delivery driver, floral delivery, bicycle courier, package delivery person, appliance delivery driver, furniture delivery person, app/platform-based delivery person.	53–3031
805	Personal Vehicle and Equipment Cleaners.	Wash or otherwise clean personal vehicles, machinery, and other equipment. Use such materials as water, cleaning agents, brushes, cloths, and hoses.	Car wash attendant, auto detailer, boat waxer.	53–7061
806	Private and Charter Bus Drivers.	Drive bus or motor coach for charters or private carriage. May assist passengers with baggage.	Motor coach bus driver, tour bus driver.	53–3052
807	Water Taxi Operators and Charter Boat Workers.	Operate water taxi boats or provide services to passengers on private charter boats. May assist in navigational activities.	Water taxi captain, air boat operator, charter boat deckhand, charter boat steward.	53–5022
808	Rickshaw, Pedicab, and Carriage Drivers.	Operate rickshaw, pedicab, or carriage to transport passengers.	Horse drawn carriage driver, bike taxi driver.	53–6099
809	Home Movers	Manually move furniture, music instruments, art, antiques, boxes, luggage, or other materials to or from a home or dwelling.	Furniture mover, packer, piano mover, art mover.	53–7062

TABLE 1 TO PARAGRAPH (H)—OCCUPATIONS THAT CUSTOMARILY AND REGULARLY RECEIVED TIPS ON OR BEFORE DECEMBER 31, 2024—Continued

Treasury Tipped Occupation Code (TTOC)	TTOC occupation title	TTOC occupation description	TTOC illustrative examples	Related standard occupational classification code (related SOC code) ¹
810	Gas Pump Attendant	Pump gas for customers at a gas station. May also clean the windshield, check the oil level, or check the tire pressure of the customer's car in conjunction with the car being refueled.	Gas pumper	53-6031

1. The "Related Standard Occupational Classification Code (Related SOC Code)" is the code from the 2018 Standard Occupational Classification System, as published by the Executive Office of the President, Office of Management and Budget, that most closely correlate(s) to the Treasury Tipped Occupation Code (TTOC).

(i) *Termination.* No deduction shall be allowed under this section for any taxable year beginning after December 31, 2028.

(j) *Applicability date.* This section applies to taxable years beginning after December 31, 2024.

Frank J. Bisignano,
Chief Executive Officer.

Approved: February 17, 2026.

Kenneth J. Kies,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2026-07104 Filed 4-10-26; 8:45 am]

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