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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 740

[Docket No. 260127–0035]

RIN 0694–AK41

Conforming Change to the Export Administration Regulations for Cambodia

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) makes a conforming change to the Export Administration Regulations (EAR) to reflect that Cambodia is no longer a Country Group D:5 country. On November 7, 2025, the Department of State published a final rule, ''International Traffic in Arms Regulations: Changes to Section 126.1,'' that removed Cambodia as an arms embargoed destination under the International Traffic in Arms Regulations (ITAR), pursuant to a determination made by the Secretary of State.

DATES: This rule is effective February 3, 2026.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Philip Johnson at *RPD2@bis.doc.gov* or (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) is amending the EAR (15 CFR parts 730–774) by making a conforming change to reflect that Cambodia is no longer a Country Group D:5 country (U.S. Arms Embargoed Countries) as listed in supplement no. 1 to part 740 of the EAR. On October 26, 2025, the White House announced that the United States had removed the arms embargo on Cambodia. On October 27, 2025, the Department of State's Directorate of Defense Trade Controls announced that it would review applications for International Traffic in Arms Regulations (ITAR) controlled activities on a case by case basis and publish a regulatory change to remove Cambodia from the list of countries in ITAR § 126.1. On November 7, 2025, the State Department published a rule amending § 126.1 of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130) to reflect the removal of Cambodia's status as an arms embargoed destination (*see* ''International Traffic in Arms Regulations: Changes to Section 126.1'', 90 FR 50489). The November 7, 2025, rule specifies that the Secretary of State made a determination to lift the embargo on defense trade with Cambodia based on Cambodia's diligent pursuit of peace and security, including through renewed engagement with the United States on defense cooperation and combating transnational crime.

Consistent with this change, Cambodia was effectively removed from Country Group D:5. Specifically, the Note to Country Group D:5 in supplement no. 1 to part 740 states that if there are any discrepancies between the list of countries in Country Group D:5 and the countries identified by the State Department as subject to a U.S. arms embargo, the State Department's list shall be controlling. Therefore, notwithstanding the continued presence of the ''X'' designation in Country Group D:5 denoting Cambodia as a country subject to the restrictions of that Group, the removal of Cambodia from ITAR § 126.1 meant that no such restrictions applied. In order to avoid confusion on the part of exporters, reexporters, and transferors over differences between the list of countries subject to an arms embargo in both regulations, this final rule deletes the ''X'' designation for Cambodia from Country Group D:5. Cambodia will remain designated in Country Group D:1 in supplement no. 1 to part 740 and the restrictions for Cambodia related to military and military-intelligence end uses and end users listed in §§ 744.21 and 744.22 of the EAR will also remain in place.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. In particular, Section 1753 of ECRA (50 U.S.C. 4812) authorizes the regulation of exports, reexports, and transfers (in-country) of items subject to U.S. jurisdiction.

Rulemaking Requirements

1. This rule has been determined to be significant pursuant to E.O. 12866. Although it is a ''significant regulatory action'' for purposes of E.O. 12866, this rule is exempt from the requirements of E.O. 14192, because it is being issued with respect to a national security function of the United States, per section 5(a) of E.O. 14192.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. Because the removal of Cambodia from Country Group D:5 will result in a more permissive license review policy for Cambodia under the EAR, BIS believes that the overall increase in burdens and costs associated with the 0694–0088 collection due to this rule is estimated to increase the number of license submissions by 100 license applications annually for an increase of 50 burden hours and cost of $1,900. BIS anticipates an increase in the use of certain EAR license exceptions as a result of the changes in this rule, but does not anticipate a change in the 0694–0137 collection because the limited number of license exceptions that will come generally do not require separate reporting in order to use. BIS does not anticipate change in the 0694–0096 or 0607–0152 collections as a result of the changes included in this final rule.

- 0694–0088, ''Simplified Network Application Processing System,'' which carries a burden-hour estimate of 29.7 minutes for a manual or electronic submission;
- 0694–0137 ''License Exceptions and Exclusions,'' which carries a burden-

hour estimate average of 1.5 hours per submission;

• 0694–0096 ''Five Year Records Retention Period,'' which carries a burden-hour estimate of less than 1 minute; and

• 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden-hour estimate of 3 minutes per electronic submission.

Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* and using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

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

List of Subjects in 15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, part 740 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 740—LICENSE EXCEPTIONS

■ 1. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228.

■ 2. In supplement 1 to part 740 amend the table Country Group D by revising the entry for Cambodia to read as follows:

Supplement No. 1 to Part 740—Country Groups

* * * * *

COUNTRY GROUP D

Country	[D: 1] National security	[D: 2] Nuclear	[D: 3] Chemical & biological	[D: 4] Missile technology	[D: 5] U.S. arms embargoed countries [1]
* * *	*	*	*	*	*
Cambodia	X				
* * *	*	*	*	*	*

[1] **Note to Country Group D:5:** Countries subject to U.S. arms embargoes are identified by the State Department through notices published in the **Federal Register**. The list of arms embargoed destinations in this table is drawn from 22 CFR 126.1 and State Department **Federal Register** notices related to arms embargoes and will be amended when the State Department publishes subsequent notices. If there are any discrepancies between the list of countries in this table and the countries identified by the State Department as subject to a U.S. arms embargo (in the **Federal Register**), the State Department's list of countries subject to U.S. arms embargoes shall be controlling.

* * * * *

Julia A. Khersonsky,

Deputy Assistant Secretary for Strategic Trade.

[FR Doc. 2026–02262 Filed 2–3–26; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140819687–5583–02; RTID 0648–XF497]

Coastal Migratory Pelagic Resources of the Gulf of America and Atlantic Region; 2025–2026 Commercial Closure for Spanish Mackerel in the Atlantic Southern Zone

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes commercial harvest for the Atlantic migratory group of Spanish mackerel in the southern zone. NMFS projects that landings of Spanish mackerel will soon reach the commercial quota for the Atlantic southern zone in the 2025–2026 fishing year. Accordingly, NMFS closes the Atlantic southern zone to commercial harvest of Spanish mackerel. This closure is necessary to protect the Spanish mackerel resource in the Atlantic.

DATES: This temporary rule is effective from February 7, 2026, through February 28, 2026.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Atlantic exclusive economic zone (EEZ) includes king mackerel, Spanish mackerel, and cobia on the east coast of Florida, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf and Atlantic Region (FMP). The FMP was prepared by NMFS and the Gulf and South Atlantic Fishery Management Councils. NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

All weights described in this document for the Atlantic migratory group of Spanish mackerel (Atlantic Spanish mackerel) apply as either round or gutted weight. The metric conversion for the imperial measurement used in this document is 1 pound (lb) equals approximately 0.45 kilograms.

For management purposes, the commercial sector of Atlantic Spanish mackerel is divided into northern and southern zones. The southern zone for Atlantic Spanish mackerel consists of Federal waters off South Carolina, Georgia, and the east coast of Florida as specified in 50 CFR 622.369(b)(2)(ii).

The southern zone boundaries extend from the border of North Carolina and South Carolina, which is a line extending in a direction of 135°34′55″ from true north beginning at 33°51′07.9″ N latitude and 78°32′32.6″ W longitude to the intersection point with the outward boundary of the EEZ, to a line at 25°20′24″ N latitude, which is the border of Miami-Dade and Monroe Counties in Florida (table 2 to § 622.369).

The southern zone commercial quota for Atlantic Spanish mackerel is 2,667,330 lb [50 CFR 622.384(c)(2)(ii)]. Regulations at 50 CFR 622.388(d)(1)(i) require NMFS to close the commercial sector for Atlantic Spanish mackerel in the southern zone when the commercial quota is projected to be reached by filing a notification to that effect with the Office of the Federal Register. NMFS projects that the commercial quota for Atlantic Spanish mackerel in the southern zone will be reached by February 7, 2026. Accordingly, the commercial sector for Atlantic Spanish mackerel in the southern zone is closed from February 7, 2026, through February 28, 2026, which is the end of the current fishing year.

During the commercial closure, a person on a vessel issued a valid Federal permit to harvest Atlantic Spanish mackerel may continue to retain this species in the southern zone under the recreational bag and possession limits as long as the recreational sector for Atlantic Spanish mackerel is open [50 CFR 622.384(e)(1)]. Regulations at 50 CFR 622.382(a)(1)(iii) and (a)(2) specify the bag and possession limits.

Also during the commercial closure, Atlantic Spanish mackerel harvested from the southern zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to Atlantic Spanish mackerel from the southern zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor [50 CFR 622.384(e)(2)].

The 2026–2027 fishing year for Atlantic Spanish mackerel in the northern and southern zones begins on March 1, 2026.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.388(d)(1)(i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedure is unnecessary because the regulation associated with the commercial closure for Atlantic Spanish mackerel has already been subject to notice and public comment, and all that remains is to notify the public of the commercial closure. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the need to immediately implement the commercial closure to protect the Atlantic Spanish mackerel resource. The capacity of the fishing fleet allows for rapid harvest of the commercial quota, and any delay in the commercial closure could result in the exceedance of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the same reasons just stated, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of this action.

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

Dated: February 2, 2026.

Kelly Denit,

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

[FR Doc. 2026–02275 Filed 2–2–26; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 250312–0037; RTID 0648–XF506]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure; request for comments.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent the underharvest of, and to achieve the full use of, the A season allowance of the 2026 total allowable catch (TAC) of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), February 3, 2026, through 1200 hours, A.l.t., June 10, 2026. Comments must be received at the following address no later than 4:30 p.m., A.l.t., February 19, 2026.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2024–0124, by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit *https://www.regulations.gov* and type NOAA–NMFS–2024–0124 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

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

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *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: Abby Jahn, 907–586–7228.

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

NMFS closed directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA on January 20, 2026 (91 FR 2496, January 21, 2026). The A

season allowance of the 2026 Pacific cod TAC allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA is 3,508 metric tons (mt) as established by the final 2025 and 2026 harvest specifications for groundfish in the GOA (90 FR 12468, March 18, 2025) and inseason adjustment (90 FR 60022, December 23, 2026). NMFS has determined that as of February 5, 2026, approximately 3,477 mt of Pacific cod remain in the A season allowance of the 2026 TAC of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA.

In accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2026 A season allowance of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. The Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that this adjustment is necessary to prevent the underharvest of the A season allowance of the 2026 TAC of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA and that reopening of directed fishing for Pacific cod by catcher vessels using trawl gear in the A season in the Central Regulatory Area of the GOA is necessary to achieve this A season allowance for catcher vessels using trawl gear in that area. The Regional Administrator considered the following factors in reaching this decision: (1) the prior catch of Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA, which shows the A season allowance for this gear (trawl gear) has not been reached, (2) the harvest capacity and stated intent on future harvesting patterns of vessels participating in this fishery, and (3) the remaining Pacific cod TAC available to harvest in the Central Regulatory Area of the GOA by catcher vessels using trawl gear in the A season.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the opening of directed fishing for Pacific cod by catcher vessels using trawl gear in the A season in the Central Regulatory Area of the GOA. Any delay could prevent the full use of the A season allowance of the 2026 TAC of Pacific cod allocated to catcher vessels using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on catch, harvest capacity and intent, and available TAC for harvest only became available as of January 30, 2026.

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

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels using trawl gear in the A season in the Central Regulatory Area of the GOA to be harvested in an expedient manner. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until February 19, 2026.

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

Dated: February 2, 2026.

Kelly Denit,

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

[FR Doc. 2026–02276 Filed 2–2–26; 4:15 pm]

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Proposed Rules

Federal Register
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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

[Docket ID: OPM–2024–0020]

RIN 3206–AO72

Civil Service Retirement System and Federal Employees' Retirement System: Secondary Position Definitions

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend its retirement regulations to revise the definition of secondary position for law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers. The changes remove the requirement that experience in a primary position is a mandatory prerequisite for an executive level position. This change will provide agencies with greater flexibility when recruiting for executive positions. Agencies retain the discretion to require experience in a primary position as a mandatory prerequisite to their secondary positions.

DATES: Comments must be received on or before March 6, 2026.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) ''3206–AO72'' using the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for sending comments.

The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* without change, including any personal identifiers or contact information. This rule is limited to the definition of secondary positions. Comments on other matters are out of scope and will not be considered. Before finalizing this rule, OPM will consider all comments within the scope of the rule received on or before the closing date for comments. OPM may make changes to the final rule after considering the comments received.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rulemaking may be found in the docket for this rulemaking at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Cynthia Reinhold, (202) 606–0299. Email: *RetirementPolicy@opm.gov,* with Attn: Secondary Position Definition Regulations in the subject line.

SUPPLEMENTARY INFORMATION:

Background

OPM has government-wide responsibility and oversight for two federal employment retirement systems: the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). These systems provide retirement and disability benefits to the majority of the civilian federal workforce. Retirement plan participation (or coverage) is generally determined by the employee's date of entrance into federal service. Most federal employees who entered federal service prior to January 1, 1984, are covered under the CSRS, while employees who entered federal service on and after January 1, 1984, are covered under the FERS. OPM and its predecessor, the Civil Service Commission, have the statutory authority to prescribe the necessary regulations to administer the CSRS and FERS retirement programs.

Federal civilians who participate in CSRS and FERS contribute 7% for CSRS and between 0.8% and 4.4% for FERS and, with 5 years of service, are eligible to receive their retirement annuity benefit beginning at age 62. Retiring earlier is possible, but the retirement benefit may be reduced if the employee is under age 62 and/or has less than 30 years of service. The annuity benefit is based on a percentage of the high-three average salary multiplied by the years of service.

Enhanced Retirement Benefits for Certain Employee Groups

The Civil Service Retirement Act was amended in 1947 to permit agents of the Federal Bureau of Investigation to retire earlier with a more generous retirement benefit. Over the years, these enhanced retirement benefit provisions were modified to expand to other federal law enforcement officers and other employee groups. Currently, under both CSRS and FERS an employee who is considered a law enforcement officer for retirement benefits purposes is eligible to retire at the age of 50 after serving at least 20 years as a law enforcement officer. Under FERS, a law enforcement officer can retire at age 50 with 20 years, but also at any age after serving at least 25 years as a law enforcement officer. This is earlier than the age at which most Federal employees can qualify for voluntary immediate retirement benefits and is based on shorter service requirements. However, law enforcement officers, unlike most Federal employees, are subject to mandatory age separation requirements. In addition to earlier and mandatory retirement, law enforcement officers receive a larger retirement benefit through a more generous calculation formula. Law enforcement officers contribute a larger employee retirement deduction during employment, half a percent more than other employees. The agency share of the cost of the enhanced retirement benefit is much greater.

The enhanced benefit provisions for law enforcement officers were enacted to enable the Government to retain employees in physically challenging occupations while also providing retirement before the demands of the job became too physically strenuous for continued employment. Comparable retirement benefit provisions exist for firefighters, air traffic controllers, and other demanding occupations that require career service from young and vigorous employees. The enhanced annuity calculation makes it economically feasible for employees in these occupations to retire earlier with less service.

The current statutory definition of law enforcement officer was enacted in 1974 and covers both an employee whose duties are primarily the investigation, apprehension, or detention of individuals suspected of criminal offenses (primary or rigorous positions) and employees engaged in those activities for at least 3 years who transfer directly to a supervisory or administrative position (secondary positions). For retirement benefit purposes, the definition of law enforcement officer has a narrow meaning. In general, police officers, building guards, and inspectors are

excluded from the definition of law enforcement officer because their primary duties involve maintaining law and order, protecting life and property, guarding against or inspecting for violations of law, or investigating persons other than persons who are suspected or convicted of criminal offenses.

To administer the enhanced retirement benefits, OPM prescribed detailed regulations that define the various duties law enforcement officers may perform and how the enhanced retirement coverage applies to primary and secondary positions. Because enhanced retirement benefits are more costly to the government and advantageous to the employees who receive them, OPM's regulations reserve the enhanced retirement benefits to only those employees in the designated field, *i.e.,* law enforcement or firefighting.

Primary and Secondary Positions

By regulation, a primary position is one in which the duties are primarily the investigation, apprehension, or detention of individuals suspected of federal criminal offenses. These duties must also be sufficiently rigorous that employment is limited to young and physically vigorous individuals. A secondary position is a position that: (1) is clearly in the law enforcement field; (2) is in an organization having a law enforcement mission; and (3) is either supervisory, such as a position whose primary duties are as a first-level supervisor of other law enforcement officers, or administrative, such as an executive, managerial position for which experience in a rigorous primary position is a mandatory prerequisite. The primary position experience requirement may be met with equivalent experience outside the federal government. The employee is considered a law enforcement officer in a secondary position if he or she transfers directly to the secondary position after performing duties in a primary position for at least 3 years. The break in service between primary and secondary positions may not exceed 3 days and the law enforcement officer's federal service must be continuous after transfer to the secondary position. The mandatory experience requirement for secondary positions corresponds to the statutory requirement that enhanced retirement benefits apply only if the employee in the primary position transfers directly to a secondary position and reserves the enhanced retirement benefits for employees engaged in a specified field of work.

These statutory and regulatory requirements work together to meet Congress' objectives in enacting the enhanced retirement benefits for employees performing rigorous duties and positions that are directly related. That objective is to provide a retirement benefits structure that makes it possible for the Government to maintain a young and vigorous workforce through youthful career entry, continuous service, and early separation. The statutory and regulatory provisions work in combination to accomplish these goals. Since the early and enhanced retirement program is more costly to the government than the basic retirement programs, the coverage is limited to a small group of employees to meet the objectives of the program.

In addition to employees across the Federal Government who meet the definition of law enforcement officer, comparable retirement benefits exist for firefighters, air traffic controllers, park police, uniformed Secret Service officers, Capitol police officers, nuclear materials couriers, Supreme Court police officers, and customs and border protection officers. The extension of enhanced retirement benefits to new employee groups required legislative amendments to the statutory retirement provisions. Although none of these additional employee groups meet the narrow definition of law enforcement officer for retirement purposes, the benefit structure is similar. Law enforcement officers, firefighters, nuclear material couriers, and customs and border protection officers share the primary and secondary position structure, and OPM's regulations apply the same procedure for agencies to follow in designating eligible employees.

Currently, OPM's regulations require that a secondary position requires previous experience in a primary position (including equivalent experience outside the Federal Government, where applicable) to qualify for the secondary position. There are many secondary positions in the Federal Government: first-line supervisors, upper-level supervisors (GS 13s/14s/15s), non-supervisory administrative positions, and senior management (GS 15/SES) positions. Enhanced retirement benefits are reserved for employees remaining in the same career track and many, if not most, supervisors, managers, and other administrative positions are promoted from the ranks of experienced employees in primary positions. The current benefits structure provides for continued enhanced retirement benefits as an employee is promoted within a specified field of work; however, an employee may encumber a secondary position without enhanced retirement coverage. These would be employees who held primary positions in the past and were able to meet the mandatory prerequisite retirement, but either did not serve the required three years in the primary rigorous position, had a break in service between positions, or did not remain continuously employed in the secondary position. Employees may and do hold secondary positions without the enhanced retirement coverage.

Impact of Secondary Position Restrictions on Recruitment for Executive Positions

To balance the interests of employees and the Government, and in consideration of the increased cost of enhanced retirement benefits, OPM's existing regulations require that service as a primary law enforcement officer, firefighter, nuclear material courier or customs and border protection officer (including equivalent service outside the Federal Government, where applicable) be a mandatory prerequisite for a position to qualify as a secondary position. Compared to primary positions, secondary positions are not as physically demanding, and therefore, do not necessarily require a youthful workforce. However, if enhanced retirement benefits applied only to primary positions, then employees would have limited incentives for advancing beyond those primary positions. Furthermore, a benefits structure that excluded employees from retaining enhanced retirement benefits when promoted to a supervisory, managerial, or related administrative position would discourage employees from seeking other positions, a result that would be unfavorable to the concept of career service and to the interests of the employer.

While requiring service in a primary position before promotion to a managerial position encourages employees to remain on a career track and reserves enhanced retirement benefits for employees in the field, it also may limit an agency's ability to recruit candidates from varied backgrounds, experiences, and perspectives for senior leadership positions. Other experiences, skills and abilities could outweigh front-line experience when recruiting for executive leadership positions. Because recruiting critical talent is a driver of long-term organizational success, OPM was asked to re-evaluate its regulations against the statutory provisions.

The Department of Homeland Security, U.S. Customs and Border Protection (CBP) asked OPM to review its regulations that define secondary

positions for customs and border protection officers. CBP explained that they encounter challenges in recruiting candidates for senior leadership positions that bring desirable skills and experience because the candidate pool is limited to only employees with rigorous primary position experience. Due to existing statutory provisions, candidates for CBP's secondary leadership positions come primarily from one occupational series. While efforts are underway to attract candidates with varied professional experience to both primary and secondary positions, the current regulations make it challenging to recruit broadly for executive leadership positions.

Based on CBP's request, OPM reviewed the relevant statutory provisions and determined that revising the definition of secondary positions is within its authority to implement and could grant agencies greater flexibility in recruiting for leadership positions. Because the statutory and regulatory structure for enhanced retirement benefits for customs and border protection officers is the same as the structure for other groups with enhanced retirement benefits (*i.e.,* law enforcement officers, firefighters, and nuclear materials couriers), OPM proposes to make corresponding adjustments to the definition of secondary positions for each of these groups to allow the agencies that employ them the same hiring flexibility.

Specifically, this rulemaking proposes changes to the primary experience requirement for certain executive level, secondary positions for law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers. If adopted, it will allow (but not require) impacted agencies to recruit more broadly for these senior leadership positions and possibly recruit candidates with the desired skills and experience but not necessarily primary position experience. A person recruited to a secondary position without primary experience would not qualify for enhanced retirement coverage. (Providing enhanced retirement benefits to individuals without primary experience would require legislative change.) However, if the agency does promote from within and an individual in a primary or secondary position with enhanced retirement benefits coverage is selected for the executive secondary position, they would retain their enhanced retirement coverage.

Proposed Changes in This Rulemaking

Revised Definition of Secondary Position

OPM proposes to amend the definition of secondary position for law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers to remove the mandatory prerequisite of service in a primary position for certain executive level secondary positions in §§ 831.802, 831.902, 831.1602, 842.802, 842.902, and 842.1002. An executive position is one whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision). To qualify as a secondary position, the executive position must be within the direct chain of command of a lower-level operational unit whose primary mission is law enforcement, firefighting, nuclear materials transport, or a mission related to the arrival and departure of persons, conveyances and merchandise at ports of entry, and where the majority of employees within that lower-level operational unit are in primary or secondary positions. This definition continues to reserve enhanced retirement benefits to employees who continue to work in the specified field. An executive position is not limited to positions in the Senior Executive Service or the equivalent.

Currently, an employee in a primary or secondary position with enhanced retirement benefits may be promoted to an executive position with oversight over other employees in primary and secondary positions and retain enhanced retirement benefits in that executive level secondary position, provided all other requirements are met. That is, the employee moving to a secondary executive position must have:

1. worked at least 3 years in a primary position, and

2. moved without a break in service from a primary or secondary position to the executive level secondary position, and

3. have been continuously employed with no break in service since moving to a secondary position.

The definition revised by this proposed rule does not change the above requirements for employees currently in a primary or secondary position but would also permit an individual without experience in a primary position to occupy that secondary executive level position without enhanced retirement benefits coverage. This change allows for recruitment from other fields with relevant skills and experience.

This proposed change would provide agencies with additional flexibility to select candidates for executive positions who best meet their organizational needs. Agency heads may review their executive level secondary positions under 5 CFR 831.811, 831.911, 831.1611, 842.808, 842.910, or 842.1008 and determine whether to retain the mandatory requirement of experience in a primary position. This proposal does not require any particular executive level position to be designated as requiring primary position experience; agencies would retain discretion to designate qualifying executive positions as secondary positions.

For secondary positions for retirement purposes, an executive position is defined as one whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit with that Federal agency or subdivision). The executive position must be within the direct chain of command of a lower-level operational unit whose primary mission is law enforcement, firefighting, nuclear material transport, or a mission related to the arrival and departure of persons, conveyances and merchandise at ports of entry, and where the majority of the employees within that lower-level operational until are in primary or secondary positions.

''Executive'' for secondary position designations is defined by the role, not the title of the position. This definition can include qualifying positions within the Senior Executive Service (SES), or SES equivalents, and include non-SES management positions such as division directors, branch chiefs (if the branch is the lowest recognized organization unit) and other managing positions whose duties are directing mission-related operations, supervising subordinate managers and staff, allocating resources, and ensuring mission execution and compliance with law and policy. Positions that exercise significant authority over programs, personnel and resources can meet the definition of ''executive'' for secondary position designations within these proposed rules.

Law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers in primary or secondary positions who advance to a qualifying executive position do not lose their enhanced retirement benefits, provided all regulatory transfer requirements are met. Agency decisions on coverage under the new definition would continue to be appealable to the Merit Systems Protection Board.

If this proposal is adopted, agency heads may review their secondary position determinations and remove the mandatory prerequisite of service in a primary position from the position descriptions of qualifying executive level positions designated as secondary positions. If an individual in a primary position moves into an executive level secondary position, he or she may retain enhanced retirement benefits because the position is still a secondary position. Alternatively, the agency may select a candidate with a different background and skillset who would make a great leader without the primary experience; however, that individual would not have enhanced retirement benefits because they never served in a primary position and did not transfer from another primary or secondary position and meet all the transfer requirements.

The amended definition would not be retroactively applied to any occupied secondary position. Consider the following example. An individual has 10 years of experience in a primary position. In 2023, the individual transferred, without a break in service, into an executive position whose primary duty is management of a subdivision of a Federal agency in the direct chain of command of a lower-level organizational unit that has a primary mission of law enforcement and in which the majority of employees within that operational unit are in primary or secondary law enforcement officer positions; however, the position was *not* identified by the agency as a secondary position at that time because the position did not require experience in a primary position as a prerequisite. With this new flexibility, an agency may determine that, going forward, the executive position will be considered a secondary (executive) position. Nonetheless, the incumbent will not be entitled to enhanced benefits even though the individual has primary experience because the position was not designated as a secondary position at the time the individual moved into the executive position. In other words, the individual did not move into an executive position that was designated as a secondary position without a break in service because the position was not designated as a secondary position at the time of the movement.

Administrative Corrections and Clarifications

In §§ 831.811(a), 831.911(a), 831.1611(a), 842.808(a), 842.710(a) and 842.1008(a), OPM proposes to amend the text to provide that agency coverage determinations and required documentation may be sent electronically to OPM.

In § 831.902, OPM proposes to revise the definition of *agency head* to reduce redundancy and clarify the meaning of the term.

In § 842.802, OPM proposes to correct the definition of *agency head* by removing an erroneous reference to the Secretary of State. The text would be corrected to refer to the Secretary of the Senate. The text would also be revised to reduce redundancy and clarify the meaning of the term.

In § 842.802, OPM is also republishing the definitions for *primary duties* and *rigorous position* without change to the text, changing only the paragraph levels for the current text and adding a paragraph level for an undesignated paragraph in each definition. For the convenience of the reader, these definitions are republished in their entirety.

OPM proposes to revise the Authority citations for parts 831 and 842 to comply with 1 CFR part 21, subpart B. OPM also proposes to remove redundant part 831 authority citations to individual sections within 5 U.S.C. Chapter 83, Subchapter III, as 5 U.S.C. 8347 provides the regulatory authority for the subchapter. Similarly, OPM proposes to remove redundant part 842 authority citations to individual sections within 5 U.S.C. chapter 84, as 5 U.S.C. 8461(g) provides the regulatory authority for the chapter.

Denied Rulemaking Petition

On August 15, 2024, OPM received a petition for rulemaking requesting formal review of OPM's regulations that implemented the retirement eligibility and calculation provisions for Customs and Border Protection Officers (CBPO). *See* 76 FR 41993 (July 18, 2011). The petitioner noted that CBPO retirement coverage provisions do not apply to primary CBPO (GS–1895 series) service performed prior to July 6, 2008. This effective date was set by statute. *See* sec. 535(e)(2)(B) of Public Law 110–161, 121 Stat. 2077 (2007). As a result of the effective date, some senior CBPO do not meet the years of primary service requirement while younger CBPO do.

Congress explicitly provided that enhanced benefits do not ''apply with respect to any service performed as a customs and border protection officer before the effective date,'' which Congress set as July 6, 2008. The petitioner noted that Congress has allowed ''retroactive buy backs'' through supplemental legislation for a variety of other types of law enforcement positions; however, Congress has not done so with respect to CBPO. Accordingly, OPM lacks authority to modify its regulations to address the concern raised by the petitioner.

Expected Impact of This Rulemaking

Statement of Need

Senior management positions for law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers have long required front-line experience as a prerequisite. As a result, executives in these fields typically have similar professional experiences since, in accordance with OPM's existing retirement regulations, they are required to have the same or similar backgrounds. OPM's retrospective review of the existing regulations suggests that the requirements for secondary positions are more restrictive than the law intended and unintentionally limited recruitment options for senior positions with law enforcement, firefighting, nuclear materials transport, and border patrol missions. Some agencies have indicated that their organizations would benefit from senior leaders with more varied professional backgrounds and work experiences and, thus, are hampered by the requirement to hire only from a pool of individuals with experience in primary positions. Removing the primary experience restrictions, as proposed, would allow agencies to recruit from a broader applicant pool for executive level positions, permitting selection of Federal executives from varied professional experiences to meet their needs, while continuing to provide the enhanced retirement benefits to promote career advancement for those with primary experience.

Impact

This proposed rule would apply only to applicants for certain executive level positions designated as secondary positions after this rulemaking becomes effective. Primary and secondary position designations apply only to agencies that employ individuals whose duties meet the statutory definition of law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer. We anticipate that this rulemaking will allow agencies with law enforcement, firefighting, nuclear materials transport, or border patrol missions to consider individuals for executive level positions from a broader pool of eligible candidates, while simultaneously preserving enhanced retirement benefits for current employees who are promoted through the chain of command. This proposed rule does not

extend enhanced retirement benefits to a new class of employees.

This rulemaking would affect Federal agencies that employ law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers. Most department-level and independent agencies employ a small number of criminal investigators who perform law enforcement officer duties in Inspector General offices and are also covered in this rulemaking. The Departments of Defense, Justice, and Homeland Security employ the largest number of law enforcement officers or customs and border protection officers. The Departments of Agriculture and Interior employ the largest number of firefighters. Nuclear materials couriers work in the Department of Energy.

As of October 2020, there are approximately 3,206 employees serving in GS–15 or above positions in the Executive branch with enhanced retirement coverage. We estimate that these are the positions potentially affected by this rulemaking. This rulemaking removes the restrictions on who can qualify for executive level secondary positions. Agencies may, based on their organizational needs, review the position descriptions for qualifying senior management positions and determine if experience in a primary position is a mandatory requirement to encumber the position. Prior experience is only one of the criteria agencies evaluate when filling positions and agencies, as a matter of practice, typically review and revise position descriptions before recruitment actions. This means that agencies may, at the time they prepare to recruit for an executive position, determine if experience in a primary position should continue to be a mandatory prerequisite and amend the position description accordingly.

Costs

Agencies impacted by this rulemaking would be allowed to modify the position description for qualifying executive level positions designated as secondary positions. We estimate that the costs associated with this proposed rule are minimal and include: the costs associated with the resources needed to review position descriptions in instances where the agency would not have otherwise reviewed the position description before recruiting for the position; and the costs associated with the resources needed to process a potentially higher volume of job applicants. Most agencies review a position description prior to recruiting for a position, so OPM estimates that any change in cost associated with review would be de minimis. The decision to modify the requirements of a secondary position would be left to the agencies if this rulemaking is finalized. This means that agencies may retain the mandatory requirement of service in a primary position, resulting in no change to recruiting efforts.

Because the potential volume of increased applicants could vary for the agencies that remove the mandatory requirement of service in a primary position, OPM cannot estimate the total monetary cost of this proposed rule; however, we do not believe this proposed rule will substantially increase the ongoing administrative costs to agencies. For example, assuming an announcement for a supervisory criminal investigator position in the Senior Executive Service (SES) on average receives 75 applicants and this proposed rule generates a 20 percent increase in the total resumes/applications received, this rule could result in 15 more resumes. Those resumes/applications would typically be reviewed by a Human Resources Specialist at a GS–12 or GS–13 level. In the Washington, DC metro area, the average yearly salary for a GS–12 or GS–13 is $126,000 or $60.37 per hour. We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of $120.74 per hour.

Assuming a review rate of 4–5 resumes per hour, it will take an average of 3.375 hours to review 15 additional resumes/applications at a cost of $407.50. If an agency advertises four SES secondary position vacancies per year, this rulemaking could potentially increase the average cost of reviewing the additional resumes/applications generated by $1,630 per year (3.375 hours $\times$ 120.74/hr. $\times$ 4 vacancy announcements). OPM welcomes comments on this analysis and other potential monetary costs not included in this analysis.

OPM also considered the potential impact of this rulemaking on employees in primary positions. Since removing the restrictions on secondary positions may increase competition for senior-level positions, the odds of employees in primary positions being selected for an opening would decrease. This, in turn, could have an impact on employee morale. While OPM acknowledges these concerns, we believe that an agency would more likely choose to remove the restrictions based on its organizational needs. If an agency determines that it needs senior leaders with more varied professional experiences in senior management, it can choose to widen the pool of candidates for secondary positions. It can also increase the future competitiveness of current employees in primary positions by providing training and/or rotational assignments in the competencies that it needs.

Benefits

This proposed rule would enable the agencies with a law enforcement, firefighting, nuclear materials transport, or border patrol mission to recruit from a wider pool of applicants for senior leadership positions. If implemented, agencies will have more flexibility to build high-performing and effective senior leadership teams by looking beyond traditional talent pools for skilled candidates. By removing the requirement that a candidate must have primary experience in the field, agencies may consider candidates with varying professional backgrounds and skillsets and select the best qualified individuals.

This proposed change would also provide additional opportunities for current Senior Executive Service members to transfer to positions previously unavailable to them. The Senior Executive Service is a national asset and is intended to encompass a mobile corps of executives. Mobility involves using a full range of assignment authorities to leverage the skills of executives for greater mission accomplishment and to prepare them for higher-levels of service, whether within the agency, or elsewhere in Government. These newly available positions would enable current or new Senior Executive Service members to build their career development and enable agile agency response to critical staffing requirements and demands.

Alternatives

OPM's current regulations implement the enhanced retirement benefits for law enforcement officers, firefighters, nuclear materials couriers, and customs and border protection officers employed under the CSRS and FERS. One alternative would be to retain the existing mandatory requirement that all incumbents in executive level secondary positions have experience in a primary position (including relevant non-federal experience) to qualify for the position. This would continue to limit an agency's ability to consider other potentially qualified candidates for executive level positions.

Another regulatory alternative is to address this issue through OPM-issued guidance. Because the current regulation states that primary experience is a mandatory prerequisite,

OPM could not provide guidance that is contrary to its regulatory requirements.

OPM could repeal its regulations that define secondary positions. Sections 8347(a) and 8461(b) of title 5, United States Code, require OPM to prescribe regulations that are necessary and proper to carry out CSRS and FERS provisions, which Congress clearly intended to apply to both frontline, primary positions and, when certain criteria are met, to secondary positions to provide career ladder opportunities for these vital roles. OPM's existing regulations set out our interpretation of the statute. If OPM is to continue to implement the enhanced retirement provisions and limit the enhanced coverage to those employees Congress intended to receive the enhanced benefit, OPM must provide clear regulations defining the scope of those enhanced benefits.

Finally, CBP could revoke the secondary position designations for its executive level positions. If CBP were to make these positions ineligible for enhanced retirement benefits coverage without a corresponding significant change to the duties of the positions, it would jeopardize the enhanced retirement benefits coverage of the employees encumbering those positions since 2008. OPM's regulations require that secondary position determinations be based on the official position description and any other evidence deemed appropriate by the agency head. Unless the primary duties of the position change to duties that no longer qualify for secondary position coverage, it would be inappropriate for the agency head to change the designation of the position to one that is not eligible for enhanced retirement benefits coverage.

Regulatory Review

OPM has examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. A regulatory impact analysis must be prepared for major rules with effects of $100 million or more in any one year. This rulemaking does not reach that threshold but has otherwise been designated as a ''significant regulatory action'' under section 3(f) of Executive Order 12866, as supplemented by Executive Order 13563. This rule is not expected to be an Executive Order 14192 regulatory action because it imposes no more than de minimis costs.

Regulatory Flexibility Act

The Director of the Office of Personnel Management certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities because it applies only to Federal agencies and employees.

Federalism

This rulemaking will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, this rulemaking does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Civil Justice Reform

OPM has reviewed this rulemaking and has determined that this action conforms to the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This regulatory action will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

5 CFR Part 831

Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

For reasons stated in the preamble, OPM proposes to amend 5 CFR parts 831 and 842 as follows:

PART 831—RETIREMENT

■ 1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347. Sec. 831.106 also issued under 5 U.S.C. 552a. Sec. 831.114 also issued under sec. 1313(b)(5), Pub. L. 107–296, 116 Stat. 2296. Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2). Sec. 831.201(g) also issued under secs. 11202(f), 11232(e), and 11246(b), Pub. L. 105–33, 111 Stat. 251; sec. 7(e), Pub. L. 105–274, 112 Stat. 2427. Sec. 831.201(i) also issued under secs. 3 and 7(c), Pub. L. 105–274, 112 Stat. 2419. Sec. 831.202 also issued under sec. 111, Pub. L. 99–500, 100 Stat. 1783; sec. 1, Pub. L. 110–279, 122 Stat. 2604. Sec. 831.204 also issued under sec. 102(e), Pub. L. 104–8, 109 Stat. 102, as amended by sec. 153, Pub. L. 104–134, 110 Stat. 1321. Sec. 831.205 also issued under sec. 2207, Pub. L. 106–265, 114 Stat. 784. Sec. 831.206 also issued under sec. 1622(b), Pub. L. 104–106, 110 Stat. 521. Sec. 831.301 also issued under sec. 2203, Pub. L. 106–265, 114 Stat. 780. Sec. 831.303 also issued under sec. 2203, Pub. L. 106–235, 114 Stat. 780. Sec. 831.502 also issued under E.O. 11228, 78 FR 7739, 3 CFR, 1965 Comp. p. 317. Sec. 831.682 also issued under sec. 201(d), Pub. L. 99–251, 100 Stat. 23. Sec. 831.912 also issued under app. C, tit. VI, sec. 636, Pub. L. 106–554, 114 Stat. 2763A–164. Subpart P also issued under div. E, title V, sec. 535, Pub. L. 110–161, 121 Stat. 2075. Subpart V also issued under tit. VI, sec. 6001, Pub. L. 100–203, 101 Stat. 1330–275. Sec. 831.2203 also issued under sec. 7001(a)(4), Pub. L. 101–508, 104 Stat. 1388–328.

■ 2. In § 831.802, revise and republish the definition of *secondary position* to read as follows:

§ 831.802 Definitions.

* * * * *

Secondary position means a position that—

(1) Is clearly in the nuclear materials transportation field;

(2) Is in an organization of the Department of Energy having a nuclear materials transportation mission; and

(3) Is either—

(i) Supervisory—a position whose primary duties are as a first-level supervisor of nuclear materials couriers in primary positions; or

(ii) Administrative—

(A) A managerial, technical, semiprofessional, or professional position for which experience in a primary nuclear materials courier position is a prerequisite; or

(B) An executive, whose principal duty is management of a Federal agency

or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision), and whose position is within the direct chain of command of a lower-level operational unit that has a primary mission related to nuclear materials transportation, and where the majority of employees within that lower-level operational unit are primary or secondary nuclear materials couriers.

■ 3. In § 831.811, revise paragraph (a) to read as follows:

(a) Upon deciding that a position is a nuclear materials courier position, the agency head must notify OPM electronically at *combox@opm.gov* stating the title of each position, the number of incumbents, and whether the position is primary or secondary. The Director of OPM retains the authority to revoke the agency head's determination that a position is a primary or secondary position, or that an individual's service in any other position is creditable under 5 U.S.C. 8336(c).

* * * * *

■ 4. In § 831.902, revise and republish the definitions of *agency head* and *secondary position* to read as follows:

§ 831.902 Definitions.

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, *agency head* is also deemed to include the designated representative of the *agency head,* as defined in the first sentence of this definition, at any level within the agency.

* * * * *

Secondary position means a position that—

(1) Is clearly in the law enforcement or firefighting field;

(2) Is in an organization having a law enforcement or firefighting mission; and

(3) Is either—

(i) Supervisory—a position whose primary duties are as a first-level supervisor of law enforcement officers or firefighters in primary positions; or

(ii) Administrative—

(A) a managerial, technical, semiprofessional, or professional position for which experience in a primary law enforcement or firefighting position, or equivalent experience outside the Federal Government, is a prerequisite; or

(B) an executive, whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision), and whose position is within the direct chain of command of a lower-level operational unit that has a primary mission or law enforcement or firefighting where the majority of employees within that lower-level operational unit are primary or secondary law enforcement officers or firefighters.

■ 5. In § 831.911, revise paragraph (a) to read as follows:

(a) Upon deciding that a position is a law enforcement officer or firefighter position, each agency head must notify OPM electronically at *combox@opm.gov* stating the title of each position, the number of incumbents, and whether the position is primary or secondary. The Director of OPM retains the authority to revoke an agency head's determination that a position is a primary or secondary position, or that an individual's service in any other position is creditable under 5 U.S.C. 8336(c).

■ 6. In § 831.1602, revise and republish the definition of *secondary position* to read as follows:

§ 831.1602 Definitions.

* * * * *

Secondary position means a position within the Department of Homeland Security that is either—

(1) Supervisory—a position whose primary duties are as a first-level supervisor of customs and border protection officers in primary positions; or

(2) Administrative—

(i) a managerial, technical, semiprofessional, or professional position for which experience in a primary customs and border protection officer position is a prerequisite; or

(ii) An executive, whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision), and whose position is within the direct chain of command of a lower-level operational unit that has a primary mission related to the arrival and departure of persons, conveyances and merchandise at ports of entry, and where the majority of employees within that lower-level operational unit are primary or secondary customs and border protection officer positions.

■ 7. In § 831.1611, revise paragraph (a) to read as follows:

(a) Upon deciding that a position is a customs and border protection officer position, the agency head must notify OPM electronically at *combox@opm.gov* stating the title of each position, occupational series, position description number (or other unique identifier), the number of incumbents, and whether the position is primary or secondary. The Director of OPM retains the authority to revoke the agency head's determination that a position is a primary or secondary position.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

■ 8. The authority citation for part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g). 4 Sec. 842.104 also issued under sec. 3, Pub. L. 105–274, 112 Stat. 2423. Sec. 842.105 also issued under 7701(b)(2). Sec. 842.106 also issued under sec. 102(e), Pub. L. 104–8, 109 Stat. 102, as amended by sec. 153, Pub. L. 104–134, 110 Stat. 1321–102. Sec. 842.107 also issued under secs. 11202(f), 11232(e), and 11246(b), Pub. L. 105–33, 111 Stat. 251; sec. 7(e), Pub. L. 105–274, 112 Stat. 2427. Sec. 842.108 also issued under sec. 7(e), Pub. L. 105–274, 112 Stat. 2427. Sec. 842.109 also issued under sec. 1622, Pub. L. 104–106, 110 Stat. 521. Sec. 842.110 also issued under tit. VIII, sec. 111, Pub. L. 99–500, 100 Stat. 1783–348; sec. 1, Pub. L. 110–279, 122 Stat. 2604. Sec. 842.208 also issued under div. E., title V, sec. 535, Pub. L. 110–161, 121 Stat. 2075. Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B). Secs. 842.304 and 842.305 also issued under div A, tit. III, sec. 321 of Pub. L. 107–228, 116 Stat. 1380. Sec. 842.707 also issued under tit. VI, sec. 6001, Pub. L. 100–203, 101 Stat. 1300–275. Sec. 842.703 also issued under sec. 7001 of Pub. L. 101–508, 104 Stat. 1388–328. Sec. 842.708 also issued under tit. IV, sec. 4005, Pub. L. 101–239, 103 Stat. 235, and sec. 7001 of Pub. L. 101–508, 104 Stat. 1388–328. Sec. 842.808 also issued under 5 U.S.C. 1104. Sec. 842.810 also issued under Appendix C, tit. VI, sec. 636, Pub. L. 106–554 at 114 Stat. 2763A–164. Sec. 842.811 also issued under tit. II, sec. 226(c)(2), Pub. Law 108–176, 117 Stat. 2530. Subpart J also issued under div. E, tit. V, sec. 535 Pub. L. 110–161, 121 Stat. 2075.

■ 9. In § 842.802, revise and republish the definitions of *agency head, primary duties, rigorous position,* and *secondary position* to read as follows:

§ 842.802 Definitions.

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General. For the purpose of an approval of coverage under this subpart, agency head is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that, for provisions dealing with law enforcement officers and firefighters, the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, agency head is also deemed to include the designated representative of the agency head, as defined in the first sentence of this definition, at any level within the agency.

* * * * *

Primary duties means (1) those duties of a position that—

(i) Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;

(ii) Occupy a substantial portion of the individual's working time over a typical work cycle; and

(iii) Are assigned on a regular and recurring basis.

(2) duties that are of an emergency, incidental, or temporary nature cannot be considered ''primary'' even if they meet the substantial portion of time criterion. In general, if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties.

Rigorous position means (1) a position the duties of which are so rigorous that employment opportunities should be limited (through establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals whose primary duties are—

(i) To perform work directly connected with controlling and extinguishing fires; or

(ii) Investigating, apprehending, or detaining individuals suspected or convicted of offenses against the criminal laws of the United States or protecting the personal safety of United States officials.

(2) The condition in this definition that employment opportunities be limited does not apply with respect to an employee who moves directly (*i.e.,* without a break in service exceeding 3 days) from one rigorous law enforcement officer position to another or from one rigorous firefighter position to another. Rigorous position is also deemed to include a position held by a law enforcement officer as identified in 5 U.S.C. 8401(17)(B) (related to certain employees in the Departments of the Interior and the Treasury). (*Note:* Certain affected Secret Service employees formerly employed by the Department of the Treasury are now employed by the Department of Homeland Security.)

Secondary position means a position that—

(1) Is clearly in the law enforcement or firefighting field;

(2) Is in an organization having a law enforcement or firefighting mission; and

(3) Is either—

(i) Supervisory—a position whose primary duties are as a first-level supervisor of law enforcement officers or firefighters in rigorous positions; or

(ii) Administrative—

(A) a managerial, technical, semiprofessional, or professional position for which experience in a rigorous law enforcement or firefighting position, or equivalent experience outside the Federal Government, is a mandatory prerequisite; or

(B) An executive, whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision), and whose position is within the direct chain of command of a lower-level operational unit that has a primary mission related to law enforcement and firefighting, and where the majority of employees within that lower-level operational unit are primary or secondary law enforcement officers or firefighters.

■ 10. In § 842.808, revise paragraph (a) to read as follows:

(a) Upon deciding that a position is a law enforcement officer or firefighter position, each agency head must notify OPM electronically at *combox@opm.gov* stating the title of each position, the number of incumbents, whether the position is rigorous or secondary, and, if the position is rigorous, the established maximum entry age (or if no maximum entry age has yet been established, the date by which it will be established). The Director of OPM retains the authority to overrule an agency head's determination that a position is a rigorous or secondary position, except such a determination under 5 U.S.C. 8401(17)(B) (concerning certain employees in the Departments of the Interior and the Treasury) (*Note:* Certain affected Secret Service employees formerly employed by the Department of the Treasury are now employed by the Department of Homeland Security.) or under 5 U.S.C. 8401(17)(D) (concerning certain positions primarily involved in detention activities).

■ 11. In § 842.902, revise and republish the definition of *secondary position* to read as follows:

§ 842.902 Definitions

* * * * *

Secondary position means a position that—

(1) Is clearly in the nuclear materials transportation field;

(2) Is in an organization of the Department of Energy having a nuclear materials transportation mission; and

(3) Is either—

(i) Supervisory—a position whose primary duties are as a first-level supervisor of nuclear materials couriers in primary positions; or

(ii) Administrative—

(A) a managerial, technical, semiprofessional, or professional position for which experience in a primary nuclear materials courier position is a prerequisite; or

(B) An executive, whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision), and whose position is within the direct chain of command of a lower-level operational unit that has a primary mission related to nuclear materials transportation, and where the majority of employees within that lower-level operational unit are primary or secondary nuclear materials couriers.

■ 12. In § 842.910, revise paragraph (a) to read as follows:

(a) Upon deciding that a position is a nuclear materials courier position, the agency head must notify OPM electronically at *combox@opm.gov* stating the title of each position, the number of incumbents, and whether the position is primary or secondary. The Director of OPM retains the authority to revoke the agency head's determination that a position is a primary or secondary position, or that an individual's service in any other position is creditable under 5 U.S.C. 8412(d).

■ 13. In § 842.1002, revise and republish the definition of *secondary position* to read as follows:

§ 842.1002 Definitions

* * * * *

Secondary position means a position within the Department of Homeland Security that is either—

(1) Supervisory—a position whose primary duties are as a first-level supervisor of customs and border protection officers in primary positions; or

(2) Administrative—

(i) a managerial, technical, semiprofessional, or professional position for which experience in a primary customs and border protection officer position is a prerequisite; or

(ii) An executive, whose principal duty is management of a Federal agency or any subdivision thereof (including the lowest recognized organizational unit within that Federal agency or subdivision), and whose position is within the direct chain of command of a lower-level operational unit that has a primary mission related to the arrival and departure of persons, conveyances and merchandise at ports of entry, and where the majority of employees within that lower-level operational unit are primary or secondary customs and border protection officer positions.

■ 14. In § 842.1008, revise paragraph (a) to read as follows:

(a) Upon deciding that a position is a customs and border protection officer, the Department of Homeland Security must notify OPM electronically at *combox@opm.gov* stating the title of each position, the occupational series of the position, the number of incumbents, whether the position is primary or secondary, and, if the position is a primary position, the established maximum entry age, if one has been established. The Director of OPM retains the authority to revoke the agency head's determination that a position is a primary or secondary position.

[FR Doc. 2026–02233 Filed 2–3–26; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2024–0207; FXES1111090FEDR–267–FF09E21000]

RIN 1018–BI16

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Fish Lake Valley Tui Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and announcement of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reopening the comment period on our May 21, 2025, proposed rule to list the Fish Lake Valley tui chub (*Siphateles obesus* ssp.), a fish found in Esmeralda County in southwestern Nevada, as an endangered species under the Endangered Species Act of 1973, as amended (Act). We are taking this action to conduct a public hearing and to allow all interested parties an additional opportunity to comment on the proposed rule. Comments previously submitted on the proposed rule need not be resubmitted and will be fully considered in our development of the final rule.

DATES:

Comment submission: The public comment period on the proposed rule that published May 21, 2025, at 90 FR 21720, is reopened. We will accept comments received on or before March 6, 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, and comments submitted by U.S. mail must be received by that date to ensure consideration.

Public hearing: On February 19, 2026, we will hold a public hearing on the proposed rule to list the Fish Lake Valley tui chub as an endangered species under the Act from 5 p.m. to 7 p.m. Pacific time, using the Zoom platform (for more information, see Public Hearing, below).

ADDRESSES:

Comment submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2024–0207, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R8–ES–2024–0207, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

(3) *Verbally at public hearing:* Interested parties may present verbal testimony (formal, oral comments) at the public hearing, which will be held virtually using the Zoom platform. See Public Hearing, below, for more information.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Document availability: The May 21, 2025, proposed rule and its supporting documents, including the species status assessment report, are available at *https://www.regulations.gov* at Docket No. FWS–R8–ES–2024–0207.

FOR FURTHER INFORMATION CONTACT: Kristen Jule, Field Supervisor, U.S. Fish and Wildlife Service, Reno Fish and Wildlife Office; 775–861–6337; *rfwomail@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS–R8–ES–2024–0207 on *https://www.regulations.gov* for a document that summarizes the May 21, 2025, proposed rule.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2025, we published a proposed rule (90 FR 21720) to list the Fish Lake Valley tui chub as an endangered species under the Act (16 U.S.C. 1531 *et seq.*). The proposed rule opened a 60-day public comment period, ending on July 21, 2025. During the open comment period, we received a request for a public hearing on the proposed rule. Therefore, we are reopening the comment period on the proposal and announcing a public hearing (see **DATES**, above) to allow the public an additional opportunity to provide comments on the proposed rule to list the Fish Lake Valley tui chub.

For a description of previous Federal actions concerning the Fish Lake Valley tui chub and more information on the types of comments that would be helpful to us in promulgating this rulemaking action, please refer to the May 21, 2025, proposed rule (90 FR 21720).

Public Hearing

We are holding a public hearing to accept comments on our May 21, 2025, proposed rule (90 FR 21720) on the date and at the time listed above in **DATES**. We are holding the public hearing via the Zoom online video platform and via

teleconference so that participants can attend remotely. For security purposes, registration is required. All participants must register in order to listen and view the hearing via Zoom, listen to the hearing by telephone, or provide oral public comments at the hearing by Zoom or telephone. For information on how to register, or if you encounter technical problems joining Zoom on the day of the hearing, visit *https://www.fws.gov/event/virtual-public-hearing-proposed-listing-fish-lake-valley-tui-chub.*

Registrants will receive the Zoom link and the telephone number for the public hearing. If applicable, interested members of the public not familiar with the Zoom platform should view the Zoom video tutorials (*https://support.zoom.us/hc/en-us/articles/206618765-Zoom-video-tutorials*) prior to the public hearing.

The public hearing will provide interested parties an opportunity to present verbal testimony (formal, oral comments) regarding the May 21, 2025, proposed rule to list the Fish Lake Valley tui chub as an endangered species (90 FR 21720). The public hearing will not be an opportunity for dialogue with the Service but rather a forum for accepting formal verbal testimony. In the event there is a large attendance, the time allotted for oral statements may be limited. Therefore, anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a prepared written copy of their statement to us through the Federal eRulemaking Portal or U.S. mail (see **ADDRESSES**, above). There are no limits on the length of written comments submitted to us. Anyone wishing to make an oral statement at the public hearing must register at *https://www.fws.gov/event/virtual-public-hearing-proposed-listing-fish-lake-valley-tui-chub* before the hearing. The use of a virtual public hearing is consistent with our regulations at 50 CFR 424.16(c)(3).

Reasonable Accommodation

The Service is committed to providing access to the public hearing for all participants. Closed captioning will be available during the public hearing. Further, a full audio and video recording and transcript of the public hearing will be posted online at *https://www.fws.gov/event/virtual-public-hearing-proposed-listing-fish-lake-valley-tui-chub* and at *https://www.regulations.gov* after the hearing. Participants will also have access to live audio during the public hearing via their telephone or computer speakers. Persons with disabilities requiring reasonable accommodations to participate in the hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the date of the hearing (see **DATES**, above) to help ensure availability. See *https://www.fws.gov/event/virtual-public-hearing-proposed-listing-fish-lake-valley-tui-chub* for more information about reasonable accommodation.

Public Comments

If you already submitted comments or information on the May 21, 2025, proposed rule (90 FR 21720), please do not resubmit them. Any such comments are incorporated as part of the public record of the rulemaking proceeding, and we will fully consider them in preparation for our final determination.

Comments should be as specific as possible. Please include supplemental information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

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

Comments and materials we receive, as well as supporting documentation we used in preparing the May 21, 2025, proposed rule (90 FR 21720), will be available for public inspection on *https://www.regulations.gov.*

Our final determination may differ from the May 21, 2025, proposed rule (90 FR 21720) because we will consider all comments we receive during the comment period as well as any information that may become available after the proposed rule published. Based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from the May 21, 2025, proposed rule (90 FR 21720).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Brian R. Nesvik,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2026–02251 Filed 2–3–26; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 91, No. 23
Wednesday, February 4, 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

Food and Nutrition Service

Summer Food Service Program; 2026 Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program. These adjustments address changes in the Consumer Price Index, as required under the Richard B. Russell National School Lunch Act. The 2026 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. The 2026 rates are also presented individually as separate operating and administrative rates of reimbursement, to show the effect of Consumer Price Index adjustments on each rate. On average, the 2026 rates adjustment represents a 3.7 percent increase in the rates from last year.

DATES: This adjustment is applicable January 1, 2026.

FOR FURTHER INFORMATION CONTACT: Penny Burke, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314. Tel. (720) 822–8597.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program (SFSP) is listed in the Assistance Listings under No. 10.559 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 2 CFR part 415 and final rule related notice published at 48 FR 29114, June 24, 1983.)

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from formal review by the Office of Management and Budget under Executive Order 12866.

Definitions

The terms used in this notice have the meaning ascribed to them under 7 CFR part 225 of the SFSP regulations.

Background

This notice informs the public of the annual adjustments to the reimbursement rates for meals served in SFSP. In accordance with sections 12(f) and 13, 42 U.S.C. 1760(f) and 1761 of the Richard B. Russell National School Lunch Act (NSLA) and SFSP regulations under 7 CFR part 225, USDA announces the adjustments in SFSP payments for meals served to participating children during calendar year 2026.

The 2026 reimbursement rates are presented as a combined set of rates to highlight simplified cost accounting procedures. Reimbursement is based solely on a ''meals times rates'' calculation, without comparison to actual or budgeted costs.

Sponsors receive reimbursement that is determined by the number of reimbursable meals served multiplied by the combined rates for food service operations and administration. However, the combined rate is based on separate operating and administrative rates of reimbursement, each of which is adjusted differently for inflation.

Calculation of Rates

The combined rates are constructed from individually authorized operating and administrative reimbursements. Simplified procedures provide flexibility, enabling sponsors to manage their reimbursements to pay for any allowable cost, regardless of the cost category. Sponsors remain responsible, however, for ensuring proper administration of the program, while providing the best possible nutrition benefit to children.

The operating and administrative rates are calculated separately. However, the calculations of adjustments for both cost categories are based on the same set of changes in the *Food Away from Home* series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. They represent a 3.7 percent increase in the series for the 12-month period from November 2024 through November 2025 (from 373.530 in November 2024 to 387.202 in November 2025).

Table of 2026 Reimbursement Rates

Presentation of the 2026 maximum per meal rates for meals served to children in SFSP combines the results from the calculations of operational and administrative payments, which are further explained in this notice. The total amount of payments to state agencies for disbursement to SFSP sponsors is based upon these adjusted combined rates and the number of meals of each type served. These adjusted rates are in effect from January 1, 2026, through December 31, 2026.

These Changes Are Reflected Below

All States except Alaska and Hawaii—Rural or Self-prep Sites—Breakfast—3 dollars and 19.75 cents (11 cents increase from the 2025 reimbursement rate), Lunch or Supper—5 dollars and 60 cents (19.75 cents increase), Snack—1 dollar and 32.50 cents (4.50 cents increase); All Other Types of Sites—Breakfast—3 dollars and 13.75 cents (10.75 cents increase), Lunch or Supper—5 dollars and 51 cents (19.50 cents increase), Snack—1 dollar and 29.50 cents (4.50 cents increase).

Alaska—Rural or Self-prep Sites—Breakfast—5 dollars and 17.75 cents (17.75 cents increase), Lunch or Supper—9 dollars and 8 cents (32 cents increase), Snack—2 dollars and 15.25 cents (7.75 cents increase); All Other Types of Sites—Breakfast—5 dollars and 8 cents (17.25 cents increase), Lunch or Supper—8 dollars and 93.25 cents (31.50 cents increase), Snack—2 dollars and 10.50 cents (7.75 cents increase).

Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands—Rural or Self-prep Sites—Breakfast—4 dollars and 15.50 cents (14.25 cents increase), Lunch or Supper—7 dollars and 29 cents (26.50 cents increase), Snack—1 dollar and 72.75 cents (6.75 cents increase); All Other Types of Sites—Breakfast—4

dollars and 7.75 cents (14.25 cents increase), Lunch or Supper—7 dollars and 17.25 cents (26 cents increase), Snack—1 dollar and 68.75 cents (6.50 cents increase).

2026 Reimbursement Rates (Combined)

Summer Food Service Program 2026 Reimbursement Rates (Combined) Per Meal Rates in whole or fractions of U.S. dollars						
January 1, 2026 through December 31, 2026						
Per Meal Rates in whole or fractions of U.S. dollars	All States except Alaska and Hawaii	All States except Alaska and Hawaii	Alaska	Alaska	Guam, Hawaii, Puerto Rico, and Virgin Islands	
	Rural or Self-prep Sites	All Other Types of Sites	Rural or Self-prep Sites	All Other Types of Sites	Rural or Self-prep Sites	All Other Types of Sites
BREAKFAST	3.1975	3.1375	5.1775	5.0800	4.1550	4.0775
LUNCH/SUPPER	5.6000	5.5100	9.0800	8.9325	7.2900	7.1725
SUPPLEMENT	1.3250	1.2950	2.1525	2.1050	1.7275	1.6875

Operating Rates

The portion of the SFSP rates for operating costs is based on payment amounts set in section 13(b)(1) of the NSLA, 42 U.S.C. 1761(b)(1). They are rounded down to the nearest whole cent, as required by section 11(a)(3)(B)(iii) of the NSLA, 42 U.S.C. 1759a(a)(3)(B)(iii).

These Changes Are Reflected Below

All States except Alaska and Hawaii—Breakfast—2 dollars and 91 cents (10 cents increase from the 2025 reimbursement rate), Lunch or Supper—5 dollars and 7 cents (18 cents increase), Snack—1 dollar and 18 cents (4 cents increase).

Alaska—Breakfast—4 dollars and 71 cents (16 cents increase), Lunch or Supper—8 dollars and 22 cents (29 cents increase), Snack—1 dollar and 92 cents (7 cents increase).

Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands—Breakfast—3 dollars and 78 cents (13 cents increase), Lunch or Supper—6 dollars and 60 cents (24 cents increase), Snack—1 dollar and 54 cents (6 cents increase).

Operating Component of 2026 Reimbursement Rates

Summer Food Service Program Operating Component of 2026 Reimbursement Rates Expressed in Dollars or Fractions Thereof			
January 1, 2026 through December 31, 2026			
Operating Rates in U.S. dollars, rounded down to the nearest whole cent	All States except Alaska and Hawaii	Alaska	Guam, Hawaii, Puerto Rico, and Virgin Islands
BREAKFAST	2.91	4.71	3.78
LUNCH/SUPPER	5.07	8.22	6.60
SUPPLEMENT	1.18	1.92	1.54

Administrative Rates

The administrative cost component of the reimbursement is authorized under section 13(b)(3) of the NSLA, 42 U.S.C. 1761(b)(3). Rates are higher for sponsors of sites located in rural areas and for ''self-prep'' sponsors that prepare their own meals at the SFSP site or at a central facility, instead of purchasing meals from vendors. The administrative portions of SFSP rates are adjusted, either up or down, to the nearest quarter-cent.

These Changes Are Reflected Below

All States except Alaska and Hawaii—Rural or Self-prep Sites—Breakfast—28.75 cents (1 cent increase from the 2025 reimbursement rate), Lunch or Supper—53 cents (1.75 cents increase), Snack—14.50 cents (0.50 cents increase); All Other Types of Sites—Breakfast—22.75 cents (0.75 cents increase), Lunch or Supper—44 cents (1.50 cents increase), Snack—11.5 cents (0.50 cents increase).

Alaska—Rural or Self-prep Sites—Breakfast—46.75 cents (1.75 cents increase), Lunch or Supper—86 cents (3 cents increase), Snack—23.25 cents (0.75 cents increase); All Other Types of Sites—Breakfast—37 cents (1.25 cent increase), Lunch or Supper—71.25 cents (2.50 cents increase), Snack—18.50 cents (0.75 cents increase).

Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands—Rural or Self-prep Sites—Breakfast—37.50 cents (1.25 cents increase), Lunch or Supper—69 cents (2.50 cents increase), Snack—18.75 cents (0.75 cents increase); All Other Types of Sites—Breakfast—29.75

cents (1.25 cents increase), Lunch or Supper—57.25 cents (2 cents increase), Snack—14.75 cents (0.50 cents increase).

Administrative Component of 2026 Reimbursement Rates

SUMMER FOOD SERVICE PROGRAM
MEAL, SNACK AND SPONSOR ADMINSTRATION PAYMENTS
Expressed in Dollars or Fractions Thereof

January 1, 2026 through December 31, 2026

		Operating Costs	Administrative Costs for Meals Served at Self-Preparation or Rural Sites	Administrative Costs for Meals Served at Other Sites
Contiguous States	BREAKFAST	2.91	0.2875	0.2275
	LUNCH/SUPPER	5.07	0.5300	0.4400
	SUPPLEMENT	1.18	0.1450	0.1150
Alaska	BREAKFAST	4.71	0.4675	0.3700
	LUNCH/SUPPER	8.22	0.8600	0.7125
	SUPPLEMENT	1.92	0.2325	0.1850
Guam, Hawaii, Puerto Rico, and Virgin Islands	BREAKFAST	3.78	0.3750	0.2975
	LUNCH/SUPPER	6.60	0.6900	0.5725
	SUPPLEMENT	1.54	0.1875	0.1475

Authority: Sections 9, 13, and 14, Richard B. Russell National School Lunch Act, 42 U.S.C. 1758, 1761, and 1762a, respectively.

Patrick A. Penn,

Deputy Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2026–02216 Filed 2–3–26; 8:45 am]

BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Colorado Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Colorado Advisory Committee to the Commission will hold a public meeting via Zoom. The purpose of the meeting is to continue reviewing drafts of their report examining campus antisemitism on the Auraria campus in Denver.

DATES: Wednesday, February 18, 2026; 3:00 p.m.–4:30 p.m. Mountain Time.

ADDRESS: The meeting will be held via Zoom.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_TLZcgxydR5yEPUSS—dJ_w.

Join by Phone (Audio Only): 1–833 435 1820 USA Toll Free; Webinar ID: 161 262 7062 #.

Agenda: https://usccr.box.com/s/6y059bv9fo0umahkzdjqzb055sn5br3e (note: a final meeting agenda will be available prior to the meeting date).

FOR FURTHER INFORMATION CONTACT: Ana Fortes, Designated Federal Officer at *afortes@usccr.gov,* or 202–681–0857.

SUPPLEMENTARY INFORMATION: This virtual committee meeting is available to the public through the registration link above. Any interested member of the public may join at the link to listen to this meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ''CC'' in the Zoom meeting platform. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Evelyn Bohor, *ebohor@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website: as well as at: *https://usccr.box.com/s/fiych8mm2wgm0itqylw0lw594ip4suh9,* at *www.facadatabase.gov* under the Commission on Civil Rights, selecting the Advisory Committee of interest. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Dated: February 2, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–02261 Filed 2–3–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RTID 0648–XF504

North Pacific Albacore United States Stakeholder Meeting; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a U.S. stakeholder meeting to discuss North Pacific albacore (NPALB) management. This meeting is intended to gather stakeholder input and prepare for potential discussions at the 2026 annual meetings of the Inter-American Tropical Tuna Commission (IATTC) and Western and Central Pacific Fisheries Commission Northern Committee (WCPFC NC) related to management of NPALB fisheries. The meeting topics are described under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The virtual meeting will be held on February 18, 2026, from 1 p.m. to 5 p.m. PST (11 a.m. to 3 p.m. HST). You must complete the registration process by February 11, 2026, if you plan to attend the meeting (see **ADDRESSES**).

ADDRESSES: If you plan to attend the meeting, which will be held by webinar, please register at *https://forms.gle/uSeePzqNHLGm5wC5A.* Instructions for attending the meeting will be emailed to meeting participants before the meeting occurs.

FOR FURTHER INFORMATION CONTACT: Valerie Post, Pacific Islands Regional Office at *valerie.post@noaa.gov*; 1–323–372–2946 or Tyler Lawson, West Coast Region Office at *tyler.lawson@noaa.gov*; 1–503–230–5421.

SUPPLEMENTARY INFORMATION: In 2025, the WCPFC NC requested the International Scientific Committee on Tuna and Tuna-like Species in the North Pacific Ocean (ISC) to provide estimates of the historical impact of each fleet group on the NPALB stock to guide discussions on potential fleet-specific reductions if stock biomass were to fall below the threshold reference point as mandated by the harvest strategy. This stakeholder meeting is intended to discuss this topic, gather stakeholder input, and prepare for anticipated discussions at the IATTC and WCPFC NC in 2026. For more information on the ISC's recommendations related to fishing intensity, please see the ISC25 Plenary Report: *https://isc.fra.go.jp/pdf/ISC25/ISC25_Plenary_Report_FINAL.pdf.* For the most recent NPALB catch statistics please see the ISC25 Annual Catch Table: *https://isc.fra.go.jp/pdf/ISC25/ISC25_Catchtable_202509.xlsx.* For updated information on NPALB fishing effort please see: *https://meetings.wcpfc.int/node/26174.*

NPALB U.S. Stakeholder Meeting Topics

The meeting agenda will be distributed to participants in advance of the meeting. The meeting agenda will include a discussion on translating fishing intensity into catch and/or effort limits for NPALB. Additionally, a timeline of important events leading up to the 2026 meeting of the WCPFC NC will be discussed. NMFS envisions holding a 2nd stakeholder webinar in mid to late May after the executive summary of the 2026 NPALB stock assessment has been released and the ISC has provided estimates of the historical impact of fleet groups. A brief update on electronic logbooks for hook and line gear will also be provided.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be indicated when registering for the meeting (see **ADDRESSES**) by February 11, 2026.

Authority: 16 U.S.C. 951 *et seq.,* 16 U.S.C. 1801 *et seq.,* and 16 U.S.C. 6901 *et seq.*

Dated: January 30, 2026.

Kelly Denit,

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

[FR Doc. 2026–02207 Filed 2–3–26; 8:45 am]

BILLING CODE 3510–22–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–13129–01–OAR]

Notice of Reinstatement of the Gasoline Volatility Waiver for Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: The Environmental Protection Agency (EPA) is announcing its approval of the request from Ohio to reinstate the 1-psi (pound per square inch) volatility waiver within the state.

DATES: February 4, 2026.

FOR FURTHER INFORMATION CONTACT: For information about this notice, contact Lauren Michaels, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Dr., Ann Arbor, MI 48105; telephone number: (734) 214–4640; email address: *michaels.lauren@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA is announcing its approval of a request from the Governor of Ohio to reinstate the 1-psi waiver for gasoline-ethanol blends containing 10 percent ethanol (E10). The Governor made this request pursuant to 40 CFR 1090.297.

This request comes after a series of requests and actions relating to gasoline volatility regulations in Ohio over the past four years. On June 10, 2022, the Governor of Ohio requested, pursuant to CAA section 211(h)(5), the removal of the 1-psi gasoline volatility waiver that would otherwise apply to E10 in the summer season.[1] This waiver allows the Reid Vapor Pressure (RVP) of E10 to be 1-psi higher than otherwise allowed for gasoline that does not contain 10 percent ethanol. EPA granted the request on February 29, 2024 and, at the same time, promulgated regulations removing the 1-psi waiver in Ohio beginning April 28, 2025.[2]

In January 2025, the Governor of Ohio petitioned for further delay of the effective date of the removal of the 1-psi waiver.[3] The EPA effectuated that change on March 20, 2025, delaying the effective date until April 28, 2026.[4]

On October 31, 2025, the Governor of Ohio requested that the EPA reinstate the 1-psi waiver for E10.[5] After review of the submission, the EPA is reinstating the 1-psi waiver for the state of Ohio. The effective date of the reinstatement of the 1-psi waiver is 90 days after the EPA's written notification to the state approving the reinstatement request.[6] EPA notified Ohio of its approval on January 28, 2026. Therefore, the effective date of the reinstatement of the 1-psi waiver in Ohio is April 28, 2026. This means that gasoline sold in Ohio that contains 10 percent ethanol can have a finished fuel volatility of 10.0 psi in the summer months. Reinstatement of the 1-psi waiver in Ohio eliminates the need for refiners and distributors to provide a different gasoline blendstock for use in Ohio in the summer months as compared to other surrounding states. Reinstatement of the 1-psi waiver in Ohio does not impact the regulatory

[1] Request from Ohio Governor Mike DeWine (June 10, 2022).

[2] 89 FR 14746 (February 29, 2024).

[3] Petition from Ohio Governor Mike DeWine (January 24, 2025).

[4] 90 FR 13093 (March 20, 2025).

[5] Letter from Ohio Governor Mike DeWine (October 31, 2025).

[6] 40 CFR 1090.297(c)(1).

requirements for other Midwest states that limit the volatility of E10 in those states, as provided in 40 CFR 1090.215(b)(3).

Aaron Szabo,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2026–02229 Filed 2–3–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10791]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 6, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: ____/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Requirements Related to Surprise Billin; Part II; *Use:* The collection of information is associated with the October 7, 2021 (86 FR 55980) interim final rules. The collection has two components:

A. Good Faith Estimates. Providers and facilities must inform uninsured (or self-pay) individuals of their right to receive a good faith estimate (GFE) of expected charges for items and services. They must also furnish a good faith estimate of expected charges to uninsured (or self-pay) individuals for scheduled items and services and upon request, which provides uninsured (or self-pay) individuals information about health care pricing before receiving care. This information would allow uninsured (or self-pay) individuals to evaluate options for receiving health care and make cost-conscious health care purchasing decisions and reduces surprises regarding individuals' health care costs for items and services. Additionally, uninsured (or self-pay) individuals need a good faith estimate to initiate the patient-provider dispute resolution process.

B. Certification and Recertification of SDR Entities. HHS requests information from entities seeking to be certified or recertified as an SDR entity. This information is used to assess whether or not the entity satisfies the requirements for certification. Entities must submit information on their organizational structure, policies and procedures, staff qualifications, conflict-of-interest safeguards, and operational capacity, along with attestations of compliance with applicable standards. This information allows HHS to determine the entity's eligibility and capability to perform SDR functions effectively and impartially. *Form Number:* CMS–10791 (OMB control number: 0938–1433); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 511,749; *Total Annual Responses:* 5,248,414; *Total Annual Hours:* 3,498,944. (For policy questions regarding this collection contact Daniel Kidane at *daniel.kidane@cms.hhs.gov.*)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–02215 Filed 2–3–26; 8:45 am]

BILLING CODE 4120–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1455 (Review)]

Polyethylene Terephthalate (PET) Sheet From South Korea; Termination of Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission instituted the subject five-year review on August 1, 2025 to determine whether revocation of the antidumping duty order on Polyethylene Terephthalate (PET) Sheet from South Korea would be likely to lead to continuation or recurrence of material injury. Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, the Department of Commerce (''Commerce'') tolled all deadlines in administrative proceedings by 47 days. 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. On January 12, 2026, Commerce published notice in the **Federal Register** that it was revoking the order effective January 12, 2026, because no domestic interested party filed a timely notice of intent to participate. Accordingly, the subject review is terminated.

DATES: January 12, 2026.

FOR FURTHER INFORMATION CONTACT: Rachel Devenney (202–205–3172), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. 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 (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930 and pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). This notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: January 30, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–02235 Filed 2–3–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–499–500 and 731–TA–1215–1216, 1221–1223 (Second Review)]

Oil Country Tubular Goods From India, South Korea, Turkey, Ukraine, and Vietnam; Notice of Commission Determination To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing duty orders on oil country tubular goods from India and Turkey and the antidumping duty orders on oil country tubular goods from India, South Korea, Turkey, Ukraine, and Vietnam would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: November 24, 2025.

FOR FURTHER INFORMATION CONTACT: Peter Stebbins (202–205–20239), 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 reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On November 24, 2025, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)).[1] The Commission found that both the domestic and respondent interested party group responses from Ukraine to its notice of institution (90 FR 28768, July 1, 2025) were adequate, and determined to conduct a full review of the order on imports from Ukraine. The Commission also found that the respondent interested party group responses from India, Turkey, South Korea, and Vietnam were inadequate but determined to conduct full reviews of the orders on imports from those countries in order to promote administrative efficiency in light of its determinations to conduct full reviews of the orders with respect to Ukraine. A record of the Commissioners' votes will be available from the Office of the Secretary and at the Commission's website.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 30, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–02210 Filed 2–3–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1658]

Bulk Manufacturer of Controlled Substances Application: S & B Pharma LLC DBA Norac Pharma

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: S & B Pharma LLC DBA Norac Pharma has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 6, 2026. Such persons may also file a written request for a hearing on the application on or before April 6, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all

[1] Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission tolled its schedule for this proceeding.

comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on January 13, 2026, S & B Pharma LLC DBA Norac Pharma, 405 South Motor Avenue, Azusa, California 91702, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Pentobarbital	2270	II
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture the above listed controlled substances for internal research and for development purposes as part of the process in seeking Food and Drug Administration approval prior to distribution to customers. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–02232 Filed 2–3–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1655]

Bulk Manufacturer of Controlled Substances Application: Sterling Pharma USA LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Sterling Pharma USA LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 6, 2026. Such persons may also file a written request for a hearing on the application on or before April 6, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on January 9, 2026, Sterling Pharma USA LLC, 1001 Sheldon Drive, Suite 101, Cary, North Carolina 27513–2078, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I
5-Methoxy-N-N-dimethyltryptamine.	7431	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to bulk manufacture the listed controlled substances to support internal research and for sale to its customers for pre-clinical trial studies. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–02230 Filed 2–3–26; 8:45 am]

BILLING CODE 4410–09–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–2161]

Duke Energy Carolinas, LLC; Belews Creek; Early Site Permit Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice each week, for four consecutive weeks, of receipt and availability of an application for an early site permit (ESP) from Duke Energy Carolinas, LLC, for the Belews Creek site located in Stokes County, North Carolina.

DATES: February 4, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–2161 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–2161. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the For **FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Belews Creek Early Site Permit Application package is available in ADAMS under Accession No. ML25364A004.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Emmanuel Sayoc, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4084; email: *Emmanuel.Sayoc@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

On December 30, 2025, Duke Energy Carolinas, LLC, filed with the NRC, pursuant to Section 103 of the Atomic Energy Act and part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' an application for an ESP for the Belews Creek site located in Stokes County, North Carolina. By issuance of **Federal Register** notice of Receipt and Availability on January 7, 2026, (91 FR 542), and in ADAMS under Accession No. ML25352A121, the staff also acknowledged receipt of the application.

In accordance with subpart A of 10 CFR part 52, ''Early Site Permits,'' an applicant may seek an ESP separate from the filing of an application for a construction permit (CP) or combined license (COL). The ESP process allows resolution of issues relating to siting. At any time during the period of an ESP, the ESP holder may reference the ESP in an application for a CP or COL. These notices are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

A subsequent **Federal Register** notice will be issued addressing the acceptability of the tendered ESP application for docketing and provisions for participation of the public in the ESP process.

Dated: January 29, 2026.

For the Nuclear Regulatory Commission.

Michelle Hayes,

Chief, Licensing and Regulatory Infrastructure Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–02240 Filed 2–3–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. K2026–148; MC2026–153 and K2026–153; MC2026–160 and K2026–160]

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:* February 9, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).:* K2026–148; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1476, with Material Filed Under Seal; *Filing Acceptance Date:* January 30, 2026; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Kenneth Moeller; *Comments Due:* February 9, 2026.

2. *Docket No(s).:* MC2026–153 and K2026–153; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 106 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* January 30, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Samuel Robinson; *Comments Due:* February 9, 2026.

3. *Docket No(s).:* MC2026–160 and K2026–160; *Filing Title:* USPS Request to Add Priority Mail Contract 952 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* January 30, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* February 9, 2026.

[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).

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Ashley Demchak,

Alternate Federal Register Liaison.

[FR Doc. 2026–02245 Filed 2–3–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: February 4, 2026.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3),on January 30, 2026, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 106 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2026–153 and K2026–153.

Daria Valan,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–02212 Filed 2–3–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104758; File No. SR–CboeBYX–2026–002]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.9(f) (''Match Trade Prevention (''MTP'') Modifiers) To Revise the Definition of Unique Identifier

January 30, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2026, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend Exchange Rule 11.9(f) (''Match Trade Prevention (''MTP'') Modifiers'') to revise the definition of Unique Identifier. The Exchange has designated this proposal as non-controversial pursuant to Rule 19b–4(f)(6)(iii) under the Act.[5] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.9(f) (''Match Trade Prevention (''MTP'') Modifiers) by revising the definition of Unique Identifier. This proposed change is a result of User feedback and implementation difficulties that the Exchange has encountered while trying to apply MTP based on current Rule 11.9(f), which requires Users [6] to have the same Unique Identifier on each order. As discussed *infra,* the current rule text provides that a Unique Identifier may originate from a specific set of User characteristics. The Exchange now seeks to revise the definition of Unique Identifier and instead provide for three situations in which a Unique Identifier may be generated. The Exchange believes this change would allow for more flexibility in determining which Users are issued a Unique Identifier without compromising the purpose of Rule 11.9(f) and match trade prevention generally. Additionally, the Exchange proposes to include rule text that provides that a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.9(f) must complete an Exchange-provided attestation. The Exchange emphasizes that MTP is entirely optional and is not required. As is the case with the existing risk tools, Users, and not the Exchange, have full responsibility for ensuring that their orders comply with applicable securities rules, laws, and regulations. Furthermore, as is the case with the existing risk settings, the Exchange does not believe that the use of the proposed MTP functionality can replace User-managed risk management solutions.

Currently, any incoming order designated with an MTP modifier will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Exchange Rule 1.5(cc). ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' The ''System'' is ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(aa). The term ''Member'' means any registered broker or dealer that has been admitted to membership in the Exchange. *See* Exchange Rule 1.5(n).

be prevented from executing against a resting opposite side order also designated with an MTP modifier and originating from the same market participant identifier (''MPID''),[7] Exchange Member identifier, trading group identifier, Exchange Sponsored Participant identifier, affiliate identifier, or Multiple Access identifier (any such identifier, a ''Unique Identifier'').[8] Both the buy and the sell order must include the same Unique Identifier in order to prevent an execution from occurring and to effect a cancel instruction based on the MTP modifier appended to each order. In order to describe how MTP functionality may be applied by Users today, the Exchange has provided a brief description of how each Unique Identifier enables MTP.

A User who enables MTP functionality using the MPID Unique Identifier will prevent contra side executions between the same MPID from occurring. A User who enables MTP using the Exchange Member Unique Identifier would prevent contra side executions between any MPID associated with that User and not just a single MPID. The trading group Unique Identifier permits Users to prevent matched trades amongst traders or desks within a certain firm but allows orders from outside such group or desk to interact with other firm orders. Users who enable MTP functionality using the Exchange Sponsored Participant Unique Identifier will prevent matched trades between contra side orders with an identical Sponsored Participant identifier. The affiliate identifier is a Unique Identifier that permits MTP to be enabled by firms with a control relationship. The affiliate identifier is only available to Users where: (i) greater than 50% ownership is identified in a User's Form BD; and (ii) the Users execute an affidavit stating that a control relationship exists between the two Users. The Multiple Access identifier is available to Users that submit orders to the Exchange both through a direct connection as well as through Sponsored Access. In each instance where an order is appended with a Unique Identifier, the Exchange is utilizing an already existing identifier (*e.g.,* MPID or Exchange Member identifier) or creating an identifier in order to enable MTP between two separate Users where there would otherwise not be a common identifier (*e.g.,* affiliate identifier or Multiple Access identifier).

Based on User feedback and implementation difficulties that the Exchange has encountered while seeking to apply MTP based its current definition of Unique Identifier, the Exchange now proposes to amend Rule 11.9(f) by revising the definition of Unique Identifier to eliminate the specific Unique Identifier types and instead providing for three situations in which a Unique Identifier may be generated. As proposed, Rule 11.9(f) would provide that a Unique Identifier may be created at: (i) the MPID level; (ii) the firm level (*e.g.,* Exchange Member identifier, trading group identifier); or (iii) where the User indicates that MTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership.

The Exchange believes this change is necessary as Users with legitimate reasons for seeking to enable MTP are choosing to submit order flow to the Exchange through various constructs that do not align with the current definitions applicable to Unique Identifiers available under current Rule 11.9(f). The proposed changes do not change how MTP will function from an operational perspective. Both the incoming order and the resting opposite side order must continue to be designated with an MTP modifier [9] (in addition to a Unique Identifier) in order for MTP to apply. The MTP modifier on the incoming order will control the interaction between two orders marked with MTP modifiers, subject to the exception contained in Rule 11.9(f)(3). This proposal is only intended to amend when the Exchange may create a Unique Identifier for a User (or multiple Users) to enable MTP when there is otherwise no common identifier available. As is the case under existing Rule 11.9(f), a Unique Identifier will continue to include an MPID, an Exchange Member identifier, a trading group identifier, or a Sponsored Participant identifier—each of which can be categorized under either the (i) MPID level or (ii) the firm level in the proposed rule text. These Unique Identifiers are based on existing identifiers that the Exchange does not specially create for Users and are already being utilized in other formats by the Exchange when a User requests to use MTP. However, when a User requests to utilize MTP and is doing so based on the current affiliate identifier or current Multiple Access identifier, the Exchange manually creates the applicable Unique Identifier for the User and must ensure that the User satisfies the requirements to obtain an affiliate identifier or Multiple Access identifier prescribed in Rule 11.9(f).

The Exchange has received feedback from firms who would like to employ MTP utilizing the current affiliate identifier or the current Multiple Access identifier that it is unclear whether particular use cases would qualify for MTP utilizing those particular identifiers based on the definition of those terms currently found in Rule 11.9(f). As such, the Exchange is proposing to remove the terms affiliate identifier and Multiple Access identifier from the definition of Unique Identifier in Rule 11.9 and replace those terms with a concept that more accurately captures a User's basis for wanting to utilize MTP as a basis for creating a Unique Identifier. The proposed rule text in Rule 11.9(f) that provides for the creation of a Unique Identifier ''. . . (iii) where the User indicates that MTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership[.]'' is based in the concept of the federal securities laws' prohibition on wash sales [10] and FINRA Rule 5210 concerning self-trades.[11] [12] Importantly,

[7] An MPID is a four-character unique identifier that is approved by the Exchange and assigned to a Member for use on the Exchange to identify the Member firm on the orders sent to the Exchange and resulting executions.

[8] *See* Exchange Rule 11.9(f).

[9] *See* Rule 11.9(f)(1)–(5). Generally, Users may elect to cancel the incoming order, cancel the resting order, cancel both orders, cancel the smallest order, or reduce the size of the larger order by the size of the smaller order.

[10] A ''wash sale'' is generally defined as a trade involving no change in beneficial ownership that is intended to produce the false appearance of trading and is strictly prohibited under both the federal securities laws and FINRA rules. *See, e.g.,* 15 U.S.C. 78i(a)(1); FINRA Rule 6140(b) (''Other Trading Practices'').

[11] Self-trades are ''transactions in a security resulting from the unintentional interaction of orders originating from the same firm that involve no change in beneficial ownership of the security.'' FINRA requires members to have policies and procedures in place that are reasonably designed to review trading activity for, and prevent, a pattern or practice of self-trades resulting from orders originating from a single algorithm or trading desk, or related algorithms or trading desks. *See* FINRA Rule 5210, Supplementary Material .02.

[12] The Exchange does not guarantee that MTP is sufficiently comprehensive to be the exclusive means by which a User can satisfy its obligations under the Exchange's rules regarding a User's supervisory obligations. MTP is designed to serve as a supplemental tool that may be utilized by Users and the Exchange generally does not believe that its use can replace User-based managed risk solutions and notes that MTP was not designed as a sole means of risk control. The User, and not the Exchange, retains full responsibility for complying with such regulatory requirements and must perform its own appropriate due diligence to ensure that MTP is reasonably designed to be effective, and otherwise consistent with the User's supervisory obligations. The Commission has stated that broker-dealers may not rely merely on representations of the technology provider, even if an exchange or other regulated entity, to meet this due diligence standard. *See,* Securities Exchange Act Release No. 63241 (November 15, 2010), 75 FR 69792 at 69798. *See also,* Reponses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, Division of Trading

the proposed revised definition of Unique Identifier, particularly item (iii), would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition. The Exchange notes that any User seeking to utilize proposed item (iii) of Rule 11.9(f) will be required to complete an Exchange-provided attestation before the Unique Identifier is created.[13]

The Exchange proposes to introduce subsection (iii) of Rule 11.9(f) to account for situations where a firm seeks to enable MTP in order to prevent transactions in securities in which there is no change in beneficial ownership but where the User does not have an existing Unique Identifier at the MPID or firm level that may be utilized to enable MTP. For instance, a firm may employ different trading strategies across different trading desks and choose to send orders for one strategy to the Exchange through one Sponsored Participant[14] while the other strategy is sent through a third party who also accesses the Exchange as a Sponsored Participant.[15] While each trading desk is sending its order flow as a Sponsored Participant, the Sponsored Participants are using different Sponsoring Members[16] to connect to the Exchange and thus the Exchange cannot apply the same Unique Identifier to each respective trading desk even though the trading desks are from the same firm. Additionally, a firm may utilize multiple broker-dealers in multiple jurisdictions to implement its trading strategy at different hours of the day. For example, a firm's US-based broker-dealer may be primarily responsible for entering orders during Regular Trading Hours,[17] while the firm's European-based broker-dealer may be primarily responsible for entering orders during the Early Trading Session.[18] Various other considerations (*e.g.,* business needs, cost, technology limitations, etc.) also factor in to a firm's decision into how it submits order flow to the Exchange.

For example, consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 seeks to enable MTP against User 2, which is a related entity of the same firm. User 1 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 2 is a European-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. User 1 and User 2 may not utilize the Sponsored Participant identifier because the Users submit orders through two different Sponsoring Members that have different Sponsored Participant identifiers. Additionally, User 1 and User 2 may not utilize the affiliate identifier because Form BD does not indicate at least a 50% ownership as proof that a control relationship exists. However, both User 1 and User 2 are controlled by the same parent company and believe that no change in beneficial ownership of the security will occur should User 1 and User 2 execute a transaction against one another.

Also consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 is attempting to enable MTP against both User 2 and User 3, all of which are related entities of the same firm. User 1 is a US-based broker-dealer that submits orders directly to the Exchange and has its own MPID and Exchange Member identifier. User 2 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 3 is a foreign broker-dealer that submits orders to the Exchange through a US-based broker-dealer (Firm 1). Firm 1 submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. In this particular example, User 1 would be eligible to enable MTP against User 2 using the multiple access Unique Identifier, as the firm has attested to being (i) a Member of the Exchange that submits orders directly to the System, and (ii) submitting orders to the System through a Sponsored Access arrangement. User 1 would also be eligible to enable MTP against User 3 using the multiple access Unique Identifier. While ultimately MTP can be enabled by User 1 against both User 2 and User 3, User 1 would need to complete multiple attestations in order to receive a multiple access identifier because User 2 and User 3 are submitting orders to the Exchange through different Sponsoring Members.

The Exchange plans to implement the proposed rule change during the first quarter of 2026 and will announce the implementation date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] 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)[21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed revised definition of Unique Identifier promotes just and equitable principles of trade by allowing individual firms to better manage order flow and prevent undesirable trading activity such as wash sales''[22] or self-trades[23] that may occur as a result of the velocity of trading in today's high-speed

and Markets, Question No. 5, April 15, 2014. Available at: *https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/divisionsmarketregfaq-0.*

[13] The Exchange will not require an attestation from Users who are able to utilize the MPID level or firm level Unique Identifiers as those Users have existing documentation in place that allows for the utilization of a Unique Identifier (*e.g.,* MPID, Exchange Member identifier, Sponsored Participant identifier, or trading group identifier) that is not manually created by the Exchange.

[14] *See* Rule 1.5(x). The term ''Sponsored Participant'' shall mean a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3.

[15] The Exchange notes that there may be instances where transactions between two trading desks from the same firm would be considered bona fide transactions (*e.g.,* sufficient information barriers exist), but if the firm is requesting to utilize MTP then there is a presumption that the firm believes that transactions between the subject trading desk would result in a self-trade.

[16] *See* Rule 1.5(y). The term ''Sponsoring Member'' shall mean a broker-dealer that has been issued a membership by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring Member shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.

[17] *See* Rule 1.5(w). The term ''Regular Trading Hours'' shall mean the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[18] *See* Rule 1.5(ff). The term ''Early Trading Session'' shall mean the time between 4:00 a.m. and 8:00 a.m. Eastern Time.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *Supra* note 10.

[23] *Supra* note 11.

marketplace. The proposed revised definition of Unique Identifier does not introduce any new or novel functionality, as the proposed amendment does not change the underlying MTP functionality, but rather will provide Users with the ability to request MTP in situations that do not fit under the Exchange's current definition of Unique Identifier but for which the User has a valid reason to believe that no change in beneficial ownership will occur as a result of a transaction. For instance, a User may operate trading desk 1 that accesses the Exchange as a Sponsored Participant through one Sponsoring Member, as well as trading desk 2 that access the Exchange as a Sponsored Participant through a different Sponsoring Member. While these desks may operate different trading strategies, a User may desire to prevent these desks from trading versus each other in the marketplace because the orders are originating from the same entity.

As described in the above example, Users may desire MTP functionality in order to help them achieve compliance [24] with regulatory rules regarding wash sales and self-trades in a very similar manner to the way that current MTP functionality applies on the existing Sponsored Participant identifier level, but that the Exchange currently cannot enable because the Users are submitting order flow as Sponsored Participant through different Sponsoring Members. In this regard, the proposed revised definition of Unique Identifier will allow Users to enable MTP in situations where it is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership but that the Exchange's current rule does not contemplate. This proposed change does not change the operation or purpose of MTP, but rather provides Users with three situations [25] in which a Unique Identifier may be created to enable MTP. The Exchange notes that the proposed revised definition of Unique Identifier would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition.

In addition, the Exchange believes that the proposed rule text promotes just and equitable principles of trade, is designed to prevent fraudulent and manipulative acts and practices, and in general protects investors and the public interest because it requires a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.9(f) to complete an attestation prior to the creation of the Unique Identifier. The Exchange believes that requiring Users requesting a Unique Identifier pursuant to item (iii) of Rule 11.9(f) to complete an Exchange-provided attestation will help ensure that a Unique Identifier created pursuant to item (iii) of Rule 11.9(f) is not done for frivolous reasons or to block executions between Users where a change of beneficial ownership would otherwise occur.

The Exchange also believes that the proposed rule change is fair and equitable and is not designed to permit unfair discrimination as MTP is available to all Users, its functionality remains optional, and its use is not a prerequisite for trading on the Exchange.

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. MTP is an optional functionality offered by the Exchange and Users are free to decide whether to use MTP in their decision-making process when submitting orders to the Exchange.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any intramarket competition as it seeks to enhance an existing functionality available to all Users. The Exchange is not proposing to introduce any new or novel functionality, but rather is proposing to provide an extension of its existing MTP functionality to Users who seek to prevent transactions in securities in which there is no change of beneficial ownership. Importantly, the proposed rule does not change how MTP operates on the Exchange and MTP will continue to be available to any User who requests a Unique Identifier and satisfies the required criteria. Additionally, the proposed revised definition of Unique Identifier would continue to capture the current concepts covered by the existing affiliate identifier and Multiple Access identifier. MTP will continue to be an optional functionality offered by the Exchange and the revised definition of Unique Identifier will not change how the current Unique Identifiers and MTP functionality operate.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any undue burden on intermarket competition. MTP is an optional functionality offered by the Exchange and Users are not required to use MTP functionality when submitting orders to the Exchange. Further, the Exchange is not required to offer MTP and is choosing to do so as a benefit for Users who wish to enable MTP functionality. Moreover, the proposed change is not being submitted for competitive reasons, but rather to provide Users enhanced order processing functionality that may prevent undesirable executions by affiliated Users such as wash sales or self-trades when no change of beneficial ownership occurs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [26] and Rule 19b–4(f)(6) thereunder.[27] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [28] and Rule 19b–4(f)(6)(iii) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant

[24] *Supra* note 12. The Exchange reminds Users that while they may utilize MTP to help prevent potential transactions such as wash sales or self-trades, Users, not the Exchange, are ultimately responsible for ensuring that their orders comply with applicable rules, laws, and regulations.

[25] The Exchange notes that two of the proposed instances (MPID and firm level) are not changing from the current definition of Unique Identifier. Only the proposed third instance is a change from the current rule text.

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[30] 17 CFR 240.19b–4(f)(6).

to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay is appropriate because the proposed rule change: (1) does not change how the current MTP functionality on the Exchange works, (2) will allow additional Users to enable MTP pursuant to the revised definition of Unique Identifier on an earlier timeline, and (3) revises the definition of Unique Identifier to prevent transactions in securities where there is no change in beneficial ownership in instances that an existing Unique Identifier would not enable MTP modifier. The Commission believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because this proposed rule change does not present any novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[32]

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–CboeBYX–2026–002 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–CboeBYX–2026–002. 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–CboeBYX–2026–002 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02219 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] 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).

[33] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104761; File No. SR–NYSEAMER–2025–74]

Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Certain Rules To List and Trade Options on the Grayscale CoinDesk Crypto 5 ETF

January 30, 2026.

On December 24, 2025, NYSE American LLC (''NYSE American'') 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 amend certain Exchange rules to list and trade options on shares of the Grayscale CoinDesk Crypto 5 ETF. The proposed rule change was published for comment in the **Federal Register** on January 12, 2026.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 26, 2026. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates April 12, 2026, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEAMER–2025–74).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02222 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104552 (Jan. 7, 2026), 91 FR 1222. The Commission has received no comment letters on the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35928]

Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 30, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of Applications for Deregistration under Section 8(f) of the Investment Company Act of 1940.

The following is a notice of applications for deregistration under

section 8(f) of the Investment Company Act of 1940 for the month of January 2026. A copy of each application may be obtained via the Commission's website by searching for the applicable file number listed below, or for an applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. The email should include the file number referenced above. Hearing requests should be received by the SEC by 5:30 p.m., Eastern time, on February 24, 2026, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.*

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

Master Government Securities LLC [File No. 811–21300]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. All interests in the fund had been redeemed by shareholders prior to liquidation. Expenses of $5,000 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Date: The application was filed on July 16, 2025.

Applicant's Address: 100 Bellevue Parkway, Wilmington, Delaware 19809.

Master Money LLC [File No. 811–21299]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. All interests in the fund had been redeemed by shareholders prior to liquidation. Expenses of $5,000 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Date: The application was filed on July 16, 2025.

Applicant's Address: 100 Bellevue Parkway, Wilmington, Delaware 19809.

Master Tax Exempt LLC [File No. 811–21301]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. All interests in the fund had been redeemed by shareholders prior to liquidation. Expenses of $5,000 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Date: The application was filed on July 16, 2025.

Applicant's Address: 100 Bellevue Parkway, Wilmington, Delaware 19809.

Master Treasury LLC [File No. 811–21298]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. All interests in the fund had been redeemed by shareholders prior to liquidation. Expenses of $5,000 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Date: The application was filed on July 16, 2025.

Applicant's Address: 100 Bellevue Parkway, Wilmington, Delaware 19809.

Aether Infrastructure & Natural Resources Fund [File No. 811–23942]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 30, 2025, applicant made a liquidating distribution to its shareholders pro rata based on net asset value. Expenses of $10,000 incurred in connection with the liquidation were paid by the fund's investment adviser.

Filing Date: The application was filed on January 13, 2026.

Applicant's Address: c/o UMB Fund Services, Inc., 235 West Galena Street, Milwaukee, Wisconsin 53212.

Tax-Exempt Private Credit Fund Inc. [File No. 811–23318]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On February 28, 2025, April 22, 2025, July 31, 2025, August 18, 2025, and December 15, 2025, applicant made liquidating distributions to its shareholders pro rata based on net asset value. Expenses of $195,300 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on December 19, 2025.

Applicant's Address: 5901 College Boulevard, Suite 400, Overland Park, Kansas 66211.

The New Ireland Fund, Inc. [File No. 811–05984]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On March 31, 2023 and December 18, 2025, applicant made liquidating distributions to its shareholders pro rata based on net asset value. Expenses of $111,736 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on December 23, 2025.

Applicant's Address: One Boston Place, 201 Washington Street, 36th Floor, Boston, Massachusetts 02108.

TCW Spirit Direct Lending LLC [File No. 811–23967]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 30, 2025, and December 29, 2025, applicant made liquidating distributions to its shareholders pro rata based on net asset value. Expenses of $35,300 incurred in connection with the liquidation were paid by the applicant's investment advisor.

Filing Date: The application was filed on November 20, 2025 and amended on January 30, 2026.

Applicant's Address: c/o The TWC Group, Inc., 200 Clarendon Street, 51st Floor, Boston, Massachusetts 02116.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02213 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104760; File No. SR–NYSEAMER–2026–02]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of a Proposed Rule Change To Amend the Initial Listing Standards Set Forth in Sections 101 and 102 of the NYSE American Company Guide

January 30, 2026.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 29, 2026, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 initial listing standards set forth in Sections 101 and 102 of the NYSE American Company Guide (''Company Guide''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Initial Listing Standards

The Exchange proposes several amendments to Section 101 of the Company Guide to increase the Exchange's requirements for initial listing and help ensure adequate liquidity for listed securities. The Exchange's proposed revisions include adding the minimum stock price and market value of publicly-held shares initial listing requirements to Section 101. Therefore, the Exchange proposed to remove these requirements from Section 102.

Unrestricted Publicly-Held Shares Requirements for Initial Listing. The Exchange proposes to adjust all of the market value of publicly-held shares requirements for initial listing in Section 101 of the Company Guide so that they can be met only on the basis of unrestricted publicly-held shares. In connection with this new listing requirement, the Exchange proposes to add to Section 101 four new definitions to define ''publicly-held shares,'' ''restricted securities,'' ''unrestricted securities'' and ''unrestricted publicly-held shares.'' The proposed definitions are substantively identical to those included in the rules of Nasdaq.[4]

The Exchange also proposes to make changes to Sections 102 and 1003(b)(i) to clarify that the proposed definition of Publicly-Held Shares in Section 101 is also applicable to those sections. Specifically, Section 1003(b)(i)(A) currently provides that a listed common stock will normally be subject to delisting procedures if the number of shares publicly held (exclusive of holdings of officers, directors, controlling shareholders or other family or concentrated holdings) is less than 200,000. As amended, this provision will be applied when the number of Publicly-Held Shares (as defined in Section 101 as proposed to be amended) is less than 200,000. Section 1003 (b)(i)(B) currently provides that a listed common stock will normally be subject to delisting procedures if the total number of public shareholders is less than 300. As amended, this provision will apply if the total number of holders of Publicly-Held shares holders (as defined in Section 101 as proposed to be amended) is less than 300. Section 1003(b)(i)(C) currently provides that a listed common stock will normally be subject to delisting procedures if the aggregate market value of shares publicly held is less than $1,000,000 for more than 90 consecutive days. As amended, this provision will provide for delisting where the aggregate market value of Publicly-Held Shares (as defined in Section 101 as proposed to be amended) is less than $1,000,000 for more than 90 consecutive days.

''Publicly-held shares'' as proposed will mean shares not held directly or indirectly by an officer, director or any person who is the beneficial owner of more than 10 percent of the total shares outstanding. Determinations of beneficial ownership in calculating publicly held shares shall be made in accordance with Rule 13d–3 under the Exchange Act. This proposed definition supersedes and differs in certain respects from the current definition of ''public shareholders'' set forth in Section 102, which provides that public shareholders include both shareholders of record and beneficial holders, but are exclusive of the holdings of officers, directors, controlling shareholders and other concentrated (*i.e.,* 10% or greater), affiliated or family holdings. Currently, securities subject to resale restrictions are not excluded from the Exchange's market value of publicly-held shares calculations for initial listing under Section 101 of the Company Guide. However, such securities are not freely transferrable or available for outside investors to purchase and therefore do not truly contribute to a security's liquidity upon listing. Consequently, a security with a substantial number of restricted securities could satisfy the Exchange's initial listing requirements related to liquidity and list on the Exchange, even though there could be few freely tradable shares, resulting in a security listing on the Exchange that is illiquid. The Exchange is concerned because illiquid securities may trade infrequently, in a more volatile manner and with a wider bid-ask spread, all of which may result in trading at prices that may not reflect the security's true market value. Less liquid securities also may be more susceptible to price manipulation, as a relatively small amount of trading activity can have an inordinate effect on market prices.

To address this concern, the Exchange is proposing to adopt a new definition of ''restricted securities,'' which includes any securities subject to resale restrictions for any reason, including, but not limited to, restricted securities (1) acquired directly or indirectly from the issuer or an affiliate of the issuer in unregistered offerings such as private

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Nasdaq Stock Market Rule 5005(a).

placements or Regulation D offerings; [5] (2) acquired through an employee stock benefit plan or as compensation for professional services; [6] (3) acquired in reliance on Regulation S, which cannot be resold within the United States; [7] (4) subject to a lockup agreement or a similar contractual restriction; [8] or (5) considered ''restricted securities'' under Rule 144.[9] The Exchange is also proposing to adopt a new definition of ''unrestricted securities'' at Section 102(b), which means securities that are not restricted securities. Finally, the Exchange proposes adding a new definition of ''unrestricted publicly held shares'' in Section 101, which would be defined as publicly held shares excluding the newly defined ''unrestricted securities.'' The Exchange proposes that all of the existing publicly-held shares requirements set forth in the initial listing standards 2–4 in Section 101 of the Company Guide will be replaced by numerically identical requirements to be met based on unrestricted publicly-held shares. With respect to initial listing standard 1, the Exchange proposes that the existing publicly-held shares requirement contained in Section 102(b) will be replaced with a minimum standard of $15,000,000 and moved to Section 101(a).[10]

As a result of the foregoing, only securities that are freely transferrable will be included in the calculation of publicly-held shares to determine whether a company satisfies the Exchange's initial listing criteria. The Exchange believes that excluding restricted securities will better reflect the liquidity of, and investor interest in, a security and therefore will better protect investors. The Exchange notes that Nasdaq previously adopted identical definitions of ''restricted securities,'' ''unrestricted publicly-held shares,'' and ''unrestricted securities'' in its rules and adjusted all of its publicly-held shares requirements to represent requirements for unrestricted publicly-held shares.[11]

Unrestricted Publicly-Held Shares Requirements for Companies Listing in Connection with an Underwritten Public Offering. In the case of a company listing in connection with a public offering, previously issued shares (''Already Outstanding Shares'') that are not held by an officer, director or 10% shareholder of the company, are currently counted as publicly-held shares for initial listing purposes under Section 101. For purposes of calculating a company's publicly-held shares, any publicly-held Already Outstanding Shares are additive to the shares being sold in the offering.

The market value of publicly-held shares standards are meant to ensure that there is sufficient liquidity to provide price discovery and support an efficient and orderly market for the company's securities. The Exchange has observed that previously non-public companies that must rely on Already Outstanding Shares in order to meet the applicable market value of publicly-held shares requirement generally have experienced higher volatility on the date of listing than those of similarly situated companies that meet the requirement solely on the basis of offering proceeds. The Exchange believes that, in some cases, Already Outstanding Shares may not contribute to liquidity to the same degree as shares sold in a public offering because Already Outstanding Shares are typically held by longer-term investors. As such, the Exchange believes it is appropriate to modify the rules to exclude Already Outstanding Shares from the calculation of market value of publicly-held shares for initial listing of companies listing in connection with a public offering.

Consequently, the Exchange proposes to adopt a requirement that any company listing in connection with an initial public offering (''IPO'') (including through the issuance of American Depository Receipts) or other underwritten public offering must have a market value of unrestricted publicly-held shares of at least $15,000,000.[12] This requirement must be satisfied from the offering proceeds. Issuers listing under Standard 4 are subject to an additional requirement to have $20,000,000 in market value of publicly-held shares.[13]

The Exchange proposes that a listing in connection with an IPO or other underwriting offering should be required to have proceeds of at least $15,000,000 representing only unrestricted publicly-held shares, as it has been the Exchange's experience that the market for securities that list after offerings that are smaller than that size has tended to be less liquid and those companies are more likely to fall below compliance with continued listing standards.[14]

$4.00 Stock Price for Initial Listing. Currently, the Exchange requires a minimum market price of $3.00 per share for applicants seeking to qualify for listing pursuant to Section 101 (a), (b) or (d) and a minimum market price of $2.00 per share for applicants seeking to qualify for listing pursuant to Section 101(c). The Exchange proposes to amend these requirements to provide that companies seeking to list will be required to have a minimum market price of $4.00 per share. The Exchange has noted that companies that have listed with a share price of less than $4.00 are more likely over time to trade at abnormally low price levels, which makes them potentially susceptible to manipulation.

The Exchange notes that the proposed $4.00 stock price requirement is consistent with the initial listing requirement for all common stock listings on the NYSE [15] and for the listing of companies on Nasdaq Capital Market [16] subject to the exception from the penny stock rule. The proposed $4.00 stock price is also consistent with the price requirement to meet the exception from the definition of penny stock in Rule 3a51–1(a)(2).[17]

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[5] *See, e.g.,* 17 CFR 230.144(a)(3)(i) and (ii), which states that securities issued in transactions that are not a public offering or under Regulation D are considered restricted securities.

[6] *See, e.g.,* 17 CFR 230.701(g), which states that securities issued pursuant to certain compensatory benefit plans and contracts relating to compensation are considered restricted securities.

[7] *See* 17 CFR 230.144(a)(3)(v), which states that securities of domestic issuers acquired in a transaction in reliance on Regulation S are considered restricted securities.

[8] Securities issued in such transactions would typically include a ''restrictive'' legend stating that the securities cannot be freely resold unless they are registered with the SEC or in a transaction exempt from the registration requirements, such as the exemption available under Rule 144.

[9] *See* generally Securities and Exchange Commission Investor Publications, Rule 144: Selling Restricted and Control Securities (January 16, 2013), available at: *https://www.sec.gov/reportspubs/investor-publications/investorpubsrule144htm.html.*

[10] Section 102(b) currently requires an aggregate market value of publicly-held shares of $3,000,000 for applicants seeking to qualify for listing pursuant to Section 101(a).

[11] *See* Securities Exchange Act Release No. 86314 (July 5, 2019), 84 FR 33102 (July 11, 2019) (approving SR–NASDAQ–2019–009).

[12] The Exchange notes that companies listing on the Nasdaq Capital Market must have a market value of unrestricted publicly-held securities of $15 million. Companies listing in conjunction with an initial public offering must meet this requirement solely with the offering proceeds. *See* Nasdaq Stock Market Rules 5505(b)(1)(B), 5505(b)(2)(C), and 5505(b)(3)(C).

[13] See Company Guide Section 101(d)(2)).

[14] The Proposed approach is consistent with a recently-adopted amendment to the Nasdaq listing rules. *See* Securities Exchange Act Release No. 102622 (March 12, 2025), 90 FR 12608 (March 18, 2025) (approving SR–NASDAQ–2024–084).

[15] *See* Section 102.01B of the NYSE Listed Company Manual (''NYSE Manual'').

[16] *See* Nasdaq Stock Market Rules 5505(a)(1)(A) and (B).

[17] *See* 17 CFR 240.3a51–1(a)(2)(i)(C). Securities listed on the Exchange are included in the ''grandfather'' exception to the definition of penny stock in Rule 3a51–1(a)(1) for securities registered or listed ''on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992 * * * and * * * has maintained quantitative listing standards that are

Measurement of Total Market Capitalization and Stock Price Requirements. Initial Listing Standard 3 requires a total market capitalization of $50,000,000. Initial Listing Standard 4 requires applicants to have either (i) $75,000,000 in total market capitalization or (ii) total assets and total revenue of $75,000,000 each in its last fiscal year, or in two of its last three fiscal years. In applying these total market capitalization standards when a company lists in connection with an IPO or other underwritten offering, the Exchange uses the public offering price for determining whether the company has met the total market capitalization requirement. However, Initial Listing Standards 3 and 4 do not currently specify how total market capitalization should be calculated when listing a company that is publicly-traded on the over-the-counter market or is transferring from another national securities exchange. The Exchange proposes to amend Initial Listing Standards 3 and 4 to provide that applicants under those listing standards must have a total market capitalization that meets the applicable requirement for 90 consecutive trading days prior to applying for listing and must also meet the proposed $4 price requirement over that same period. The Exchange notes that the proposed approach is the same as that adopted by the NYSE in applying its Global Market Capitalization Test for initial listing [18] and by Nasdaq Capital Market in listing companies that qualify solely under its Market Value of Listed Securities Standard.[19]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5) of the Act [21] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Unrestricted Publicly-Held Shares Requirements for Initial Listing. The Exchange believes that the proposal to modify the initial listing requirements with respect to (i) the market value of publicly-held shares so that they relate instead to the market value of unrestricted publicly-held shares and (ii) the adoption a $15,000,000 market value of unrestricted publicly-held shares requirement for the listing of companies in connection with IPOs or other underwritten offerings satisfied solely from the proceeds of the offering, are each consistent with Section 6(b)(5) of the Act because the Exchange believes that the changes will likely result in less volatile trading of affected companies upon listing. The market value of publicly-held shares standards are among the core liquidity requirements within the Exchange listing rules designed to ensure that there is sufficient liquidity to provide price discovery and support an efficient and orderly market for the company's securities. Based on the Exchange's experience, companies that meet the applicable market value of publicly-held shares requirement only by including Already Outstanding Shares are generally more likely to be subject to volatile trading on the date of listing than similarly situated companies that meet the requirement with only the proceeds from the offering. The Exchange believes that this proposed change will help ensure that the initial pool of liquidity available for trading meets or exceeds the minimum applicable market value of unrestricted publicly-held shares requirement.

In connection with this new listing requirement, the Exchange proposes to add to Section 101 four new definitions to define ''publicly-held shares,'' ''restricted securities,'' ''unrestricted securities, and ''unrestricted publicly-held shares.'' The proposed definitions are substantively identical to those included in Nasdaq Stock Market Rule 5005(a).

$4.00 Stock Price for Initial Listing. The Exchange has noted that companies that have listed with a share price of less than $4.00 are more likely over time to trade at abnormally low price levels, which makes them potentially susceptible to manipulation. The Exchange believes that the proposed $4.00 initial price requirement will make it less likely that an issuer's stock price will subsequently fall to an abnormally low level.

Measurement of Total Market Capitalization and Stock Price Requirements. The Exchange believes that the proposal to amend Listing Standards 3 and 4 to provide that applicants under those listing standards must have a total market capitalization that meets the applicable requirement for 90 consecutive trading days prior to applying for listing and must also meet the proposed $4.00 price requirement over that same period provides greater clarity and certainty as to the application of those rules. The Exchange notes that the proposed approach is the same as that adopted by the NYSE in applying its Global Market Capitalization Test for initial listing [22] and by Nasdaq Capital Market in listing companies that qualify solely under its Market Value of Listed Securities Standard.[23]

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. All domestic and foreign companies seeking to list or having continuous listings of equity securities would be affected in the same manner by these changes. To the extent that companies prefer listing on a market with these proposed listing standards, other exchanges can choose to adopt similar enhancements to their requirements. As such, these changes are neither intended to, nor expected to, impose any burden on competition between 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004.''

[18] *See* NYSE Manual Section 102.01C(II).

[19] *See* Nasdaq Stock Market Rule 5505(b)(2)(A).

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* NYSE Listed Company Manual Section 102.01C(II).

[23] *See* Nasdaq Stock Market Rule 5505(b)(2)(A).

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–2026–02 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–2026–02. 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–2026–02 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02221 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104752; File No. SR–NYSEAMER–2026–08]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE American Options Fee Schedule To Modify Certain Fees and Rebates Applicable to Specialists, e-Specialists and NYSE American Options Market Makers and Floor Brokers

January 30, 2026.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 28, 2026, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE American Options Fee Schedule (''Fee Schedule'') regarding fees and rebates applicable to Specialists, e-Specialists and NYSE American Options Market Makers (''Market Makers'') and Floor Brokers. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to modify fees and rebates applicable to Specialists, e-Specialists and Market Makers (collectively, ''Floor Market Makers'') and Floor Brokers. Specifically, the Exchange proposes to (1) extend a current surcharge that applies to certain complex orders to any Floor Market Maker order that is a counterparty to a Manual trade executed by a Floor Broker that is not a Simple Order, and (2) establish a rebate payable to Floor Brokers for such trades with a Floor Market Maker order. The Exchange proposes the fee change to be effective January 28, 2026.[4]

The Exchange currently charges a surcharge of $0.12 per contract that is applied to any electronic Non-Customer Complex Order that executes against a Customer Complex Order (the ''Non-Customer Complex Surcharge''), regardless of whether the execution occurs in a Complex Order Auction but does not apply to executions in CUBE Auctions. For ATP Holders that achieve a prescribed volume threshold during a billing month, the Non-Customer Complex Surcharge is reduced to ($0.10). The Non-Customer Complex Surcharge is consistent with surcharges imposed by other options exchanges.[5] The Non-Customer Complex Surcharge is described in footnote 5 in Section I.A. of the Fee Schedule.[6] The Exchange proposes extending the current surcharge of $0.12 per contract to any Floor Market Maker order that is a counterparty to a Manual trade executed by a Floor Broker that is not a Simple Order,[7] and to establish a rebate of $0.20 per contract payable to the Floor Broker side of such trades. For Floor Brokers that participate in the FB Prepay

[4] The Exchange previously filed to amend the Fee Schedule on January 2, 2026 (SR–NYSEAMER–2026–01), then withdrew such filing and amended the Fee Schedule on January 16, 2026 (SR–NYSEAMER–2026–04), which latter filing the Exchange withdrew on January 28, 2026.

[5] *See, e.g.,* NYSE Arca Options Fee Schedule, ELECTRONINC COMPLEX ORDER EXECUTION (TRANSACTION FEE—PER CONTRACT), footnote * (assessing $0.12 per contract surcharge to any electronic Non-Customer Complex Order that executes against a Customer Complex Order); MIAX Options Fee Schedule, Sections 1)a)i)–ii) (assessing a $0.12 per contract surcharge for trading against a Priority Customer Complex Order for Penny and Non-Penny classes).

[6] *See* Fee Schedule, Section I.A. (Rates for Options transactions).

[7] A ''Simple Order'' is any order to purchase or sell contracts in a single listed option series. *See* Fee Schedule, KEY TERMS and DEFINITIONS.

Program, the proposed rebate would apply in lieu of any rebates earned through the Manual Billable Rebate Program as provided in Section III. E. of the Fee Schedule. Although the proposed change would increase the fee for Manual transactions that are not Simple Orders (''non-Simple Manual orders'') for Floor Market Makers, the Exchange believes these participants will continue to quote actively to participate in transactions on the Trading Floor as they do today, thereby promoting trading opportunities and competition on the Trading Floor to the benefit of all market participants. The Exchange also believes that the proposed rebate would continue to incentivize Floor Brokers to participate on the Trading Floor, including when the counterparty to such trading is a Floor Market Maker.

To reflect the changes proposed herein, the Exchange proposes to add the following new rule text in footnote 5 in Section I.A. of the Fee Schedule: ''The surcharge will also be applied to any Floor Market Maker order that is a counterparty to a Manual trade executed by a Floor Broker that is not a Simple Order, and the Floor Broker side of such trade will be eligible for a rebate of ($0.20). For Participants in the FB Prepay Program, the rebate will apply in lieu of any rebates achieved via the Manual Billable Rebate Program described below in Section III.E.'' Finally, the Exchange proposes a non-substantive, clarifying change to add the words ''for Electronic executions'' in the third sentence of footnote 5 to specify that the discount would not apply to Manual Complex Orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its 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.'' [10]

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[11] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2025, the Exchange had 8.58% market share of executed volume of multiply-listed equity and ETF options trades.[12] In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of options order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

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 or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

The Exchange believes that the proposed rebate would incentivize Floor Brokers to direct additional non-Simple Manual orders to the Exchange, thereby creating more trading opportunities on the Trading Floor for all market participants, including Market Makers. The Exchange thus believes that, despite the proposed surcharge on Market Maker orders that are counterparty to such Floor Broker orders, Market Makers would not be discouraged from continuing to quote and trade actively on the Exchange.

The Exchange believes that the proposed changes are reasonably designed to incent Floor Brokers (and other participants on the Trading Floor) to increase the number of Manual orders sent to the Exchange. Any increase in trading volume would create more trading opportunities for all market participants and would in turn attract additional order flow to the Exchange, further contributing to a deeper, more liquid market to the benefit of all market participants. The Exchange also notes that the proposed rebate is similar in structure to incentive programs for Floor Brokers offered by competing options exchanges.[13]

The Exchange further believes the surcharge is reasonable because it is designed to offset costs associated with the proposed rebate payable to Floor Brokers when they interact with Floor Market Makers. To the extent this purpose is achieved, the Exchange believes that the proposed surcharge would not disincentivize Market Maker activity on the Trading Floor because increased order flow from Floor Brokers seeking to earn the proposed rebate would result in more opportunities to trade for all market participants.

To the extent the proposed rule change continues to attract greater volume and liquidity by encouraging Floor Brokers to increase their options volume on the Exchange in an effort to earn the proposed rebate, the Exchange believes the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. Against the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[11] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[12] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.*, the Exchange's market share in equity-based options increased from 6.09% for the month of November 2024 to 8.58% for the month of November 2025.

[13] *See, e.g.,* BOX Exchange Fee Schedule, Section V. Manual Transaction Fees, available at *https://boxexchange.com/assets/BOX-Fee-Schedule-as-of-January-22-2026.pdf* (offering Floor Brokers that submit QOO and FOO Orders a $0.20 per contract enhanced rebate for executions that trade with a Floor Market Maker, in lieu of lesser per contract rebates also available to Floor Brokers); MIAX Sapphire Options Exchange, Section 1) c) Trading Floor Transactions, available at *https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Sapphire_Fee_Schedule_01212026_b.pdf* (providing for the ''Floor Broker Breakup Credit,'' a $0.20 credit applicable to Floor Brokers that submit a QFO or cQFO for executions that trade with a Floor Market Maker, instead of the $0.10 Floor Broker rebate otherwise available).

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits because the proposed rebate is based on the amount and type of business transacted on the Exchange, and Floor Brokers can try to earn the proposed rebate, or not. The Exchange also believes that the proposed surcharge is equitable because it is designed to balance costs associated with encouraging increased execution opportunities on the Trading Floor, and an increase in such orders would in turn enhance trading opportunities for all market participants. The Exchange also believes that the proposed rebate to Floor Brokers is an equitable allocation of fees and credits because it is intended to support Floor Brokers' role in facilitating the execution of Manual orders, which function benefits all market participants on the Trading Floor.

Moreover, the proposal is designed to incent participation on the Trading Floor in an effort to make the Exchange a primary execution venue and to attract more Manual transactions to the Exchange. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to impose a surcharge on Floor Market Maker orders that are a counterparty to a Floor Broker non-Simple Manual order because the proposed change would apply to all Floor Market Maker orders equally, and as discussed above, the Exchange believes it is not unfairly discriminatory to incent order flow to the Exchange, which would enhance liquidity on the Exchange to the benefit of all market participants. The Exchange also believes that the proposed rebate payable to Floor Brokers for a non-Simple Manual order that trades with a Floor Market Maker order is not unfairly discriminatory because it would be available to all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange further believes that the proposed rebate available to Floor Brokers is not unfairly discriminatory to other market participants because it is intended to encourage the role performed by Floor Brokers in facilitating the execution of orders via open outcry, a function which the Exchange wishes to support for the benefit of all market participants. In addition, although the proposed change would apply a surcharge to Market Maker orders that trade with Floor Broker non-Simple Manual orders, the Exchange believes that Market Makers would not be discouraged from continuing to participate actively on the Trading Floor and would benefit from increased Floor Broker order flow as a result of the proposed change. To the extent that this increased order flow attracts order flow from other market participants to the Trading Floor, the proposed rule change would improve market quality and promote additional trading opportunities for all market participants on the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [14]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed surcharge on Floor Market Maker orders that are a counterparty to Floor Broker non-Simple Manual orders, and the proposed rebate payable to the Floor Broker side of such trades would encourage Floor Broker non-Simple Manual order flow and would not disincentivize Floor Market Maker activity. Greater liquidity benefits all market participants on the Exchange and increased order flow would increase opportunities for execution of other trading interest. The proposed modifications would apply and be available to all similarly-situated market participants that execute Manual transactions on the Trading Floor, and, accordingly, the proposed changes would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the other 17 competing options exchanges if they deem the Exchange's fee levels to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[15] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2025, the Exchange had 8.58% market share of executed volume of multiply-listed equity and ETF options trades.[16]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to continue to incent participants on the Trading Floor to direct trading interest to the Exchange, to provide liquidity and to attract additional order flow. To the extent that Floor Brokers are encouraged to utilize the Exchange as a primary trading venue for all transactions, all Exchange market participants stand to benefit from the improved market quality and increased opportunities for price improvement. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an

[14] *See* Reg NMS Adopting Release, *supra* note 10, at 37499.

[15] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[16] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.,* the Exchange's market share in equity-based options increased from 6.09% for the month of November 2024 to 8.58% for the month of November 2025.

environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2026–08 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–NYSEAMER–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–NYSEAMER–2026–08 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02226 Filed 2–3–26; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104749; File No. SR–BOX–2026–03]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Reflect Adjustments to Section II.A. (FINRA Fees) and Section II.B. (Registration and Continuing Education Fees)

January 30, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 22, 2026, BOX Exchange LLC (''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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to reflect adjustments to Section II.A. (FINRA Fees) and Section II.B. (Registration and Continuing Education Fees).[5] Specifically, the Exchange is proposing to: (1) replace the existing $70 FINRA Annual System Processing Fee Assessed only during Renewals with the new tiered FINRA Annual System Processing Fee structure; (2) update the Series 57 Exam fee to $105; (3) increase the $18 Continuing Education Fee to $25; (4) increase the Fingerprinting Processing Fees; (5) increase the $125 FINRA Web CRD Processing Fee to $175; and (6) increase the $155 FINRA Disclosure Processing Fee to $215. The changes proposed herein for the FINRA Annual System Processing Fee, the Series 57 Exam fee, and the Continuing Education Fee will become operative upon filing. Additionally, the Exchange designates that the proposed changes to the FINRA Web CRD Processing Fee, the FINRA Disclosure Processing Fee, and the FINRA Fingerprinting Processing Fees will become operative January 1, 2028.[6] The text of the proposed rule change is available from the principal office of the Exchange, and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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

[5] This rule change impacts FINRA Fees for members who trade on BOX. The BOX Fee Schedule, Section II.A FINRA Fees and Section II.B Registration and Continuing Education Fees, contains a list of fees that will be collected and retained by FINRA via the Web CRD registration system for the registration of associated persons of Exchange members that are not also FINRA members.

[6] *See* Securities Exchange Act Release No. 101696 (November 21, 2024), 89 FR 93709 (November 27, 2024) (SR–FINRA–2024–019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adjust FINRA Fees to Provide Sustainable Funding for FINRA's Regulatory Mission).

forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to reflect adjustments to various FINRA fees.[7]

This proposal amends BOX's Fee Schedule to reflect adjustments to the Annual System Processing Fee, the Series 57 Exam fee, the Continuing Education Fee, the FINRA Web CRD Processing Fee, the FINRA Disclosure Processing Fee and the FINRA Fingerprinting Processing Fees. The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of BOX Participants and Participant organizations that are not FINRA members (''Non-FINRA members'').[8] The Exchange is merely listing these fees on its Fee Schedule. The Exchange does not collect or retain these fees.

Annual System Processing Fee

FINRA currently assesses an annual system processing fee for each of the member's registered persons. Under the current fee structure, a flat $70 fee applies to each registered person of a member. Many registered persons are registered with one or more securities regulators (*i.e.,* with jurisdictions as a broker-dealer agent and with SROs as a representative or principal). FINRA is replacing the current flat fee structure with a tiered rate structure beginning in 2026 as described below. Under FINRA's new tiered rate structure, the fee would be calculated based on the total number of securities regulators with which each registered person of a member is registered (whether as a broker-dealer agent with one or more jurisdictions or as a representative or principal with one or more SROs).[9]

The Exchange proposes to amend Section II.A.3. of the Fee Schedule to replace the current $70 FINRA Annual System Processing Fee Assessed only during Renewals with the new tiered FINRA Annual System Processing Fee structure, which will be assessed for each registered representative and principal (annually, based on the number of securities regulators with which each such registered person is registered, excluding registration as an investment adviser representative). The fees will now be as follows: (1) 1 to 5 registrations: $70; (2) 6 to 20 registrations: $95; (3) 21 to 40 registrations: $110; and (4) 41+ registrations: $125. The Exchange is also proposing to increase the FINRA Annual System Processing Fee to the following amounts beginning January 1, 2028: 1 to 5 registrations to $100; 6 to 20 registrations to $125; 21 to 40 registrations to $140; and 41+ registrations to $155.[10]

These amendments are being made in accordance with a FINRA rule change to adjust its fees.[11] The Exchange is merely listing these fees on its Fee Schedule. The Exchange does not collect or retain these fees.

Series 57 Exam Fee

The Exchange also proposes to amend Section II.B.1. of the Fee Schedule to update the Series 57 Exam fee to $105.[12] These amendments are being made in accordance with a FINRA rule change to adjust its fees.[13] The Exchange is merely listing these fees on its Fee Schedule. The Exchange does not collect or retain these fees.

Continuing Education Fee

The Exchange also proposes to amend Section II.B.2. of the Fee Schedule to increase the Continuing Education Fee from $18 to $25.[14] These amendments are being made in accordance with a FINRA rule change to adjust its fees.[15] The Exchange is merely listing these fees on its Fee Schedule. The Exchange does not collect or retain these fees.

Fingerprinting Processing Fees

The Exchange also proposes to amend Section II.A. to increase the following Fingerprinting Processing Fees: (1) the $31.25 first card submission (electronic) fee to $38;[16] (2) the $41.25 first card submission (non-electronic) fee to $52;[17] (3) the $20 second card submission (electronic) fee to $28;[18] (4) the $30 second card submission (non-electronic) fee to $42;[19] (5) the $31.25 third card submission (electronic) fee to $38;[20] (6) the $41.25 third card submission (non-electronic) fee to $52;[21] and (7) the $30 processing fee for fingerprint results processed through a self-regulatory organization other than FINRA to $42. The Fingerprinting Processing Fee listed on the Exchange's Fee Schedule reflects the combined FINRA and FBI charges for fingerprint submissions. Specifically, today, the FBI fingerprint charge is $10,[22] the FINRA electronic Fingerprinting Processing Fee[23] will increase from $20 to $28 in 2028, the FINRA non-electronic

[7] The Exchange initially filed the proposed change on December 30, 2025 (SR–BOX–2025–32). On January 12, 2026, the Exchange withdrew SR–BOX–2025–32 and submitted SR–BOX–2026–01. On January 22, 2026, the Exchange withdrew SR–BOX–2026–01 and replaced it with the instant filing.

[8] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[9] A registered person's registration as an investment adviser representative would not be considered.

[10] *See supra* note 6. FINRA is implementing the proposed tiered rate structure in 2026 and, to allow members additional time to adjust and plan, FINRA is deferring the implementation of the proposed increases to this fee until 2028.

[11] *See supra* note 6. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[12] The Exchange notes that the Fee Schedule inadvertently reflects an outdated fee, the current fee for the Series 57 examination is $80.

[13] *See supra* note 6. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[14] The Continuing Education Fee will be assessed to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange Rule 2040 and is paid directly to FINRA.

[15] *See supra* note 6. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[16] This fee includes a $28.00 FINRA fee and $10.00 FBI fee. *See https://www.finra.org/rules-guidance/rule-filings/sr-finra-2024-019/fee-adjustment-schedule.*

[17] This fee includes a $42.00 FINRA fee and a $10.00 FBI fee. *See https://www.finra.org/rules-guidance/rule-filings/sr-finra-2024-019/fee-adjustment-schedule.*

[18] This fee includes a $28.00 FINRA fee. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual. *See https://www.finra.org/rules-guidance/rule-filings/sr-finra-2024-019/fee-adjustment-schedule* and *https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[19] This fee includes a $42.00 FINRA fee. The FBI does not charge its fee on a second fingerprint transaction when it identifies the first set of fingerprints as illegible for the same individual. *See https://www.finra.org/rules-guidance/rule-filings/sr-finra-2024-019/fee-adjustment-schedule* and *https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[20] This fee includes a $28.00 FINRA fee and $10.00 FBI fee. *See https://www.finra.org/rules-guidance/rule-filings/sr-finra-2024-019/fee-adjustment-schedule.*

[21] This fee includes a $42.00 FINRA fee and $10.00 FBI fee. *See https://www.finra.org/rules-guidance/rule-filings/sr-finra-2024-019/fee-adjustment-schedule.*

[22] Effective January 1, 2025, the FBI fingerprint fee, for both electronic and hardcopy fingerprint transactions, has been reduced to $10 per charged fingerprint submission. *https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[23] This fee applies for processing and posting to the CRD system each set of fingerprints submitted electronically by a member to FINRA, plus any other charge that may be imposed by the United States Department of Justice for processing each set of fingerprints.

Fingerprinting Processing Fee [24] will increase from $30 to $42 in 2028, and the fee for processing fingerprint results where the member had prints processed through a through a self-regulatory organization other than FINRA will increase from $30 to $42.[25] These amendments to the Fingerprinting Processing Fees are designated as operative January 1, 2028, and are being made in accordance with a FINRA rule change to adjust its fees.[26] The Exchange is merely listing these fees on its Fee Schedule. The Exchange does not collect or retain these fees.

Registration Fees

The Exchange also proposes to amend Section II.A. to increase the $125 FINRA Web CRD Processing Fee [27] to $175 and the $155 FINRA Disclosure Processing Fee [28] to $215. These amendments are being made in accordance with a FINRA rule change to adjust its fees.[29] The Exchange is merely listing these fees on its Fee Schedule. The Exchange does not collect or retain these fees.

Each of these fees are listed within Section II.A. and Section II.B. of the BOX Fee Schedule. These amendments are being made in accordance with a FINRA rule change to adjust its fees.[30] The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those assessed by FINRA.

Lastly, the Exchange also proposes to make non-substantive technical changes to renumber the endnotes within the BOX Fee Schedule to conform with the changes proposed herein.

[24] This fee applies for processing and posting to the CRD system each set of fingerprints submitted in non-electronic format by a member to FINRA, plus any other charge that may be imposed by the United States Department of Justice for processing each set of fingerprints.

[25] *See supra* note 6. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission. The Exchange does not collect or retain these fees.

[26] *See supra* note 6. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[27] This fee applies for each initial or transfer Uniform Application for Securities Industry Registration or Transfer (''Form U4'') filed by a member in the CRD system to register an individual.

[28] This fee applies for the additional processing of each initial or amended Form U4, Form U5, or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings.

[29] *See supra* note 6. FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[30] *See supra* note 6.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[31] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes it is reasonable to: (1) replace the existing $70 FINRA Annual System Processing Fee Assessed only during Renewals with the new tiered FINRA Annual System Processing Fee structure and to increase such tiered fees in 2028; (2) update the Series 57 Exam fee to $105; (3) increase the $18 Continuing Education Fee to $25; (4) increase the Fingerprinting Processing Fees; (5) increase the $125 FINRA Web CRD Processing Fee to $175; and (6) increase the $155 FINRA Disclosure Processing Fee to $215 because each of the proposed fees are identical to those adopted by FINRA for the use of Web CRD for disclosures and the registration of FINRA members and their associated persons. The Exchange further believes it is reasonable to update the Fingerprinting Fees to reflect the reduced FBI Fee of $10.[32] The amendments to the Fingerprint Fees will provide all Participants with the correct Fingerprint Fees.

These costs are borne by FINRA when a Non-FINRA member uses Web CRD. The Exchange's rule text will reflect the current registration and fingerprint rates that are assessed by FINRA for the Annual System Processing Fee, the Series 57 Exam fee, the Continuing Education Fee, the electronic and non-electronic Fingerprinting Processing Fees, the Web CRD Processing Fee, and the Disclosure Processing Fee. As noted previously, the FINRA Annual System Processing Fee, the Series 57 Exam fee, and the Continuing Education Fee will become operative upon filing,[33] and the Web CRD Processing Fee, the Disclosure Processing Fee, and the Fingerprinting Processing Fees will become operative January 1, 2028.

The Exchange believes it is equitable and not unfairly discriminatory to: (1) replace the existing $70 FINRA Annual System Processing Fee Assessed only during Renewals with the new tiered FINRA Annual System Processing Fee structure and to increase such tiered fees in 2028; (2) update the Series 57 Exam fee to $105; (3) increase the $18 Continuing Education Fee to $25; (4) increase the Fingerprinting Processing Fees; (5) increase the $125 FINRA Web CRD Processing Fee to $175; and (6) increase the $155 FINRA Disclosure Processing Fee to $215 because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. Similarly, the Exchange believes it is equitable and not unfairly discriminatory to update the Fingerprinting Fees to reflect the reduced FBI Fee of $10, because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

Lastly, the Exchange believes the proposed changes to renumber the endnotes within the BOX Fee Schedule are reasonable, equitable, and not unfairly discriminatory. These non-substantive technical amendments will bring greater clarity to the Fee Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that is proposal to: (1) replace the existing $70 FINRA Annual System Processing Fee Assessed only during Renewals with the new tiered FINRA Annual System Processing Fee structure and to increase such tiered fees in 2028; (2) update the Series 57 Exam fee to $105; (3) increase the $18 Continuing Education Fee to $25; (4) increase the Fingerprinting Processing Fees; (3) increase the $125 FINRA Web CRD Processing Fee to $175; and (4) increase the $155 FINRA Disclosure Processing Fee to $215 does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner. Similarly, the Exchange believes it does not impose an undue burden on competition to update the Fingerprinting Fees to reflect the reduced FBI Fee of $10 because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

Lastly, the Exchange believes the proposed changes to renumber the endnotes within the Fee Schedule do not impose an undue burden on

[31] 15 U.S.C. 78f(b)(4) and (5).

[32] *See supra* note 22.

[33] *See supra* note 10.

competition. These non-substantive amendments will bring greater clarity to the Fee Schedule.

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 Effectiveness

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [34] and Rule 19b–4(f)(2) thereunder,[35] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2026–03 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–BOX–2026–03. 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–BOX–2026–03 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

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[34] 15 U.S.C. 78s(b)(3)(A)(ii).

[35] 17 CFR 240.19b–4(f)(2).

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104755; File No. SR–FICC–2026–003]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Remove the Activity Limit From the GSD Rules

January 30, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 29, 2026, Fixed Income Clearing Corporation (''FICC'') 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 clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to FICC's Government Securities Division (''GSD'') Rulebook (''GSD Rules'') [3] in order to enhance the risk management of indirect participants by (i) removing the activity limit currently applied to Sponsoring Members and, in lieu thereof, (ii) modifying the application of the ''higher of'' calculation methodology that currently applies the higher of start-of-day (''SOD'') VaR Charge and intraday VaR Charge to all Sponsoring Member Omnibus Accounts to apply to only those Sponsored Members and/or Segregated Indirect Participants whose activity level exceeds a specified liquidity threshold.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing to enhance the risk management of indirect participants by removing the activity limit currently applied to Sponsoring Members and, in lieu thereof, modifying the application of the ''higher of'' calculation methodology that currently applies the higher of SOD VaR Charge and intraday VaR Charge to all Sponsoring Member Omnibus Accounts, to apply to only those Sponsored Members and/or Segregated Indirect Participants whose activity level exceeds a specified liquidity threshold.

Background

FICC, through GSD, serves as a central counterparty and provider of clearance and settlement services for transactions in U.S. government securities, as well as repurchase and reverse repurchase transactions involving U.S. government securities.[4] As part of its market risk management strategy, FICC manages its credit exposure to Members by determining the appropriate Required Fund Deposit to the Clearing Fund and monitoring its sufficiency, as provided for in the GSD Rules.[5] At GSD, FICC calculates the Required Fund Deposit amount for each Member twice a day.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Terms not defined herein are defined in the GSD Rules, *available at www.dtcc.com/legal/rules-and-procedures.*

[4] GSD also clears and settles certain transactions on securities issued or guaranteed by U.S. government agencies and government sponsored enterprises.

[5] *See* GSD Margin Component Schedule, *supra* note 3. FICC's market risk management strategy is designed to comply with Rule 17ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17ad–22(e)(4).

The calculation is based upon each Member's unsettled and pending transactions.

The objective of a Member's Required Fund Deposit is to mitigate potential losses to FICC associated with liquidating a Member's portfolio in the event FICC ceases to act for that Member (hereinafter referred to as a ''default'').[6] The aggregate amount of all Members' Required Fund Deposit constitutes the Clearing Fund. FICC would access the Clearing Fund should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to FICC caused by the liquidation of that Member's portfolio.

Each Member is also responsible for the margin requirements arising from the activity of the Member's indirect participant customers submitted to FICC via the Sponsoring Member/Sponsored Member service (''Sponsored Service'') and/or the Agent Clearing Service. FICC's Sponsored Service permits Members that are approved to be Sponsoring Members, to sponsor certain institutional firms, referred to as ''Sponsored Members,'' into GSD membership.[7] FICC establishes and maintains a ''Sponsoring Member Omnibus Account'' on its books in which it records the transactions of the Sponsoring Member's Sponsored Members (''Sponsored Member Trades'').[8] Similarly, FICC's Agent Clearing Service permits Members that are approved to be Agent Clearing Members to submit activities of certain institutional firms, referred to as ''Executing Firm Customers,'' into FICC for clearing and settlement. FICC establishes and maintains an ''Agent Clearing Member Omnibus Account'' on its books in which it records the transactions of the Agent Clearing Member's Executing Firm Customers (''Agent Clearing Transactions'').[9]

Both the Sponsoring Members and the Agent Clearing Members also have the option of segregating Sponsored Member Trades of a Sponsored Member and Agent Clearing Transactions of an Executing Firm Customer, as applicable, in separate accounts (*i.e.,* Segregated Indirect Participant Accounts),[10] each such Sponsored Member and Executing Firm Customer being referred to as a ''Segregated Indirect Participant.'' FICC manages its credit exposure to Segregated Indirect Participants by determining the appropriate Segregated Customer Margin Requirement and monitoring its sufficiency, as provided for in the GSD Rules.[11] FICC calculates the Segregated Customer Margin Requirement amount for each Member twice a day. The calculation is based upon the unsettled and pending transactions in each Member's (i) Sponsoring Member Omnibus Accounts designated as Segregated Indirect Participants Accounts and (ii) Agent Clearing Member Omnibus Accounts designated as Segregated Indirect Participants Accounts.

Pursuant to the GSD Rules, each Member's Required Fund Deposit amount and/or Segregated Customer Margin Requirement amount, to the extent applicable, consist of a number of components, each of which is calculated to address specific risks faced by FICC, as identified within the GSD Rules.[12] These components include the VaR Charge, Blackout Period Exposure Adjustment, Backtesting Charge, Holiday Charge, Margin Liquidity Adjustment Charge, Excess Capital Premium, Intraday Supplemental Fund Deposit, special charge, Portfolio Differential Charge, Volatility Event Charge, and Intraday Mark-to-Market Charge.[13] The VaR Charge [14] generally comprises the largest portion of a Member's Required Fund Deposit amount/Segregated Customer Margin Requirement amount.

The Required Fund Deposit amount and the Segregated Customer Margin Requirement amount are each designed to be directly correlated with the amount of risk created by a Member's/Segregated Indirect Participant's trade activity and is calculated based on the Member's/Segregated Indirect Participant's outstanding positions as well as its intraday trading and settlement activity. FICC has the ability to require additional financial resources or other adequate assurances (such as a limitation on their activity), as a risk mitigant from those Members that may pose a risk to FICC or its memberships.[15]

FICC mitigates the market risk associated with Sponsored Service and Agent Clearing Service through the twice-daily margin collection from the Sponsoring Members and Agent Clearing Members.[16] In addition, under the GSD Rules, FICC currently has the ability to limit activities and assess a higher Clearing Fund deposit, as further described below, both of which are specifically designed to manage risk exposures from the Sponsored Service.

Similar to the Sponsored Service, the Agent Clearing Service also enables participation by firms that rely on the services provided by Members in order to have their activity cleared and settled through FICC's facilities. Accordingly, FICC is looking to align the risk management and monitoring process for the Agent Clearing Service and the Sponsored Service, particularly with respect to the management of risk exposures from Sponsored Members and Segregated Indirect Participants, with the proposed changes further described below.

1. Removal of Activity Limit

Currently, FICC can manage its risk exposures from the Sponsored Service by limiting the activities that a Sponsoring Member can submit to FICC. Specifically, under Section 2(h) of GSD Rule 3A, if the sum of the VaR Charges of a Sponsoring Member's Sponsoring Member Omnibus Account(s) and its Dealer Accounts (''Aggregate VaR Charges'') exceeds its Netting Member Capital,[17] the Sponsoring Member shall not be permitted to submit activity into its Sponsoring Member Omnibus Account(s), unless otherwise determined by FICC in order to promote orderly settlement.[18]

FICC is proposing to delete this restriction on activity submission from GSD Rule 3A, and, in lieu thereof, modify the application of the ''higher of'' calculation methodology so that it would apply to only those Sponsored Members and Segregated Indirect Participants whose activity level exceeds a specified liquidity threshold. The proposed removal of activity limit would also facilitate access to FICC's clearance and settlement services in accordance with the requirements of

[6] The GSD Rules identify when FICC may cease to act for a Member and the types of actions FICC may take. For example, FICC may suspend a firm's membership with FICC or prohibit or limit a Member's access to FICC's services in the event that Member defaults on a financial or other obligation to FICC. *See* GSD Rule 21 (Restrictions on Access to Services), *supra* note 3.

[7] *See* GSD Rule 3A (Sponsoring Members and Sponsored Members), *supra* note 3.

[8] *See* GSD Rule 1 (Definitions) (definition of ''Sponsored Member Trades''), *supra* note 3.

[9] *See* GSD Rule 1 (definition of ''Agent Clearing Transactions''), *supra* note 3.

[10] *See* GSD Rule 2B (Accounts), *supra* note 3.

[11] *See* GSD Rule 4 (Clearing Fund and Loss Allocation) and GSD Margin Component Schedule, *supra* note 3. FICC's market risk management strategy is designed to comply with Rule 17ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17ad–22(e)(4).

[12] *Supra* note 3.

[13] These margin components and the relevant defined terms are located in the GSD Margin Component Schedule, *supra* note 3.

[14] *See* GSD Margin Component Guide (definition of ''VaR Charge''), *supra* note 3.

[15] *See* GSD Rule 3 (Ongoing Membership Requirements), *supra* note 3.

[16] *See* Rule 3A, Section 10 and Rule 8 (Agent Clearing Service), Section 7, *supra* note 3.

[17] *See* GSD Rule 1 (definition of ''Netting Member Capital''), *supra* note 3.

[18] *See* GSD Rule 3A, Section 2(h), *supra* note 3.

Rule 17ad–22(e)(18)(iv)(C) under the Act.[19]

2. Modify Application of the ''Higher Of'' Calculation Methodology

In addition to the activity limit described above, FICC can also manage its risk exposures from the Sponsored Service by assessing a higher Clearing Fund deposit on the Sponsoring Members. FICC currently applies the higher of the VaR Charge [20] calculation as of the beginning of the current Business Day and intraday on the current Business Day as the intraday VaR Charge to a Sponsoring Member's Sponsoring Member Omnibus Account pursuant to Section 4(e) of the GSD Margin Component Schedule.[21] FICC believes this calculation procedure, currently applicable only to Sponsoring Member Omnibus Accounts, should also apply to Sponsoring Member Omnibus Accounts designated as Segregated Indirect Participants Accounts as well as Agent Clearing Member Omnibus Accounts designated as Segregated Indirect Participants Accounts, as both of these Account types would also be used exclusively to record transactions submitted to FICC on behalf of entities other than a Member (*i.e.,* Sponsored Members and Segregated Indirect Participants) and thus should be monitored and risk managed in a similar manner.[22] Accordingly, in addition to Sponsored Members that are currently subject to the ''higher of'' calculation methodology, FICC is proposing to expand the application of the ''higher of'' calculation methodology to include Segregated Indirect Participants. However, instead of applying the ''higher of'' calculation to these Account types at all times, FICC would modify the application of this methodology as described below.

In order to monitor and mitigate risk exposures from Sponsored Members and Segregated Indirect Participants whose activity level exceeds a specified liquidity threshold, FICC is proposing that, with respect to each Sponsored Member and/or Segregated Indirect Participant, FICC would compare the total liquidity needs arising from the Sponsored Member's/Segregated Indirect Participant's activities across all Accounts of its Sponsoring Members/Agent Clearing Members against FICC's daily liquidity need. If on any Business Day the aggregate liquidity needs of the Sponsored Member/Segregated Indirect Participant across all Accounts exceed FICC's daily liquidity need, then FICC would apply the ''higher of'' calculation methodology to the Sponsored Member/Segregated Indirect Participant for the following 25 Business Days.[23] Specifically, the ''higher of'' VaR Charge would be assessed for each applicable Sponsored Member/Segregated Indirect Participant via the relevant Sponsoring Member Omnibus Account/Agent Clearing Member Omnibus Account based on the SOD and intraday VaR Charges calculated for the Sponsored Member/Segregated Indirect Participant. For example, if Sponsored Member X submits transactions through four different Sponsoring Members, generating Receive Obligations and Funds-Only Settlement Amounts that total $100 billion on Day 1, and the FICC's daily liquidity need on Day 1 is $80 billion, then FICC would impose a ''higher of'' calculation methodology on Sponsored Member X for the next 25 Business Days, (*i.e.,* Day 2 to Day 27), by assessing Sponsored Member X the higher of its SOD VaR Charge and intraday VaR Charge for both margin cycles. This means that, if Sponsored Member X's SOD VaR Charge was $300 million and its intraday VaR Charge was $150 million on Day 2, Sponsored Member X would be assessed a VaR Charge of $300 million for both the SOD and the intraday margin cycles on Day 2.

Proposed GSD Rule Changes

To implement the proposed changes described above, FICC proposes to make the following amendments to the GSD Rules.

FICC proposes to revise GSD Rule 1 by adding new definitions for ''Affiliated Family'' and ''Daily Liquidity Need.''

''Affiliated Family'' would be defined to mean a group of Members, excluding from the group any Member that is a securities clearinghouse, depository, exchange or other market infrastructure, in which each Member in the group is an Affiliate of at least one other Member in the group.

''Daily Liquidity Need'' would be defined to mean on any Business Day, the largest payment obligation of FICC as a central counterparty, as calculated and determined by FICC, for all projected same day, intraday and multiday settlement activity (where appropriate), assuming the default on that day of a Netting Member or, for an Affiliated Family, the largest payment obligation that FICC would have in the event of the simultaneous default of all Members of that Affiliated Family.

In addition, FICC would modify the GSD Rules by deleting Section 2(h) of GSD Rule 3A, the existing activity limit provision. Due to the deletion of GSD Rule 3A, Section 2(h), subsection 2(i) would be renumbered 2(h) and subsection 2(j) would be renumbered 2(i).

In lieu thereof, FICC would modify the GSD Rules by revising Section 4 of the GSD Margin Component Schedule to reflect the modifications to the application of the ''higher of'' calculation methodology. Specifically, FICC is proposing to delete the existing language in Section 4(e) of the GSD Margin Components Schedule and adding language that would provide that for each Sponsored Member and/or Segregated Indirect Participant, FICC

[19] 17 CFR 240.17ad–22(e)(18)(iv)(C).

[20] Section 4(e) of the GSD Margin Component Schedule currently states that FICC applies the higher of the ''Required Fund Deposit'' calculation as of the current Business Day and intraday on the current Business Day for the Sponsoring Member Omnibus Account, even though in practice FICC calculates the Unadjusted GSD Margin Portfolio Amount applicable to a Sponsoring Member Omnibus Account based on the higher of the VaR Charge calculation as of the beginning of the current Business Day and intraday on the current Business Day. In reviewing the GSD Rules in connection with this present filing, FICC believes this reference to ''Require Fund Deposit'' in Section 4(e) of the GSD Margin Component Schedule is incorrect and should be changed to ''VaR Charge'' to accurately reflect the current practice.

[21] FICC calculates VaR Charge twice daily based on each Member's noon position and end-of-day position. Typically, the VaR Charge calculated based on the noon slice would be collected intraday at 2:45 p.m. (*i.e.,* intraday VaR Charge), while the VaR Charge calculated based on the end-of-day position would be collected at start-of-day at 9:30 a.m. the next business day (*i.e.,* SOD VaR Charge). With the application of the ''higher of'' methodology, FICC would compare the VaR Charge calculated based on the noon slice against the VaR Charge calculated based on the prior business day's end-of-day positions and apply the higher of the two amounts as the intraday VaR Charge. For example, if the VaR Charge calculated based on the noon slice is lower than the VaR Charge calculated based on the prior business day's end-of-day position, then FICC would assess the VaR Charge calculated based on the prior business day's end-of-day position as the intraday VaR Charge. In contrast, if the VaR Charge calculated based on the noon slice is higher than the VaR Charge calculated based on the prior business day's end-of-day position, then FICC would assess the VaR Charge calculated based on the noon slice as the intraday VaR Charge.

[22] As proposed, FICC would not apply the ''higher of'' calculation methodology to Agent Clearing Member Omnibus Accounts that are not designated as segregated. This is because, unlike Sponsored Members and Segregated Indirect Participants whose margin requirements are calculated on a gross basis, margin requirements for Agent Clearing Member Omnibus Accounts that are not designated as segregated are calculated on a net basis across all Executing Firm Customers whose transactions are recorded within the same account.

[23] FICC believes the proposed 25 Business Days application period of the ''higher of'' calculation methodology would provide FICC higher margin coverage within a given calendar month in order to mitigate increases in risk exposure levels arising from Members' indirect participant activities, particularly those spanning over month-end period, which tend to be when FICC risk management has observed increases in those activities.

shall compare the sum of Receive Obligations [24] and Funds-Only Settlement Amounts [25] recorded for the Sponsored Member and/or Segregated Indirect Participant across all Accounts against FICC's Daily Liquidity Need. If on any Business Day the aggregate sum of Receive Obligations and Funds-Only Settlement Amounts of the Sponsored Member and/or Segregated Indirect Participant across all Accounts exceeds FICC's Daily Liquidity Need, for purposes of calculating the Unadjusted GSD Margin Portfolio Amount, FICC shall apply the higher of the VaR Charge calculation as of the beginning of the day and intraday as the intraday VaR Charge to the Sponsored Member and/or Segregated Indirect Participant for the following 25 Business Days.

In addition, the title of Section 4 of the GSD Margin Component Schedule would be changed from ''Increased Required Fund Deposits'' to ''Increased Required Fund Deposits/Segregated Customer Margin Requirements.''

Impact Study

FICC performed an impact study for the period April 1, 2024 to October 31, 2025 (''Impact Study Period''). The impact study included 696 out of 2,978 Sponsored Members because they had either Receive Obligations and/or Funds-Only Settlement Amounts.[26] If the proposed rule changes had been in place during the Impact Study Period, out of 696 Sponsored Members, 31 Sponsored Members (or approximately 4.5%) would not be impacted and 665 Sponsored Members (or approximately 95.5%) would be positively impacted.

Specifically, out of the 31 Sponsored Members that would not be impacted, five Sponsored Members were already subject to the ''higher of'' calculation methodology under the current GSD Rules and would remain subject to the ''higher of'' calculation methodology under the proposal. For the other 26 Sponsored Members, their VaR Charges calculated based on the noon slice are higher than their VaR Charges calculated based on the prior business day end-of-day positions. Therefore, these 26 Sponsored Members were already being assessed the VaR Charge calculated based on their noon slice as their intraday VaR Charges and would continue to be assessed that way under the proposal. For the 665 Sponsored Members that would be positively impacted, they would have a reduction in their VaR Charges as a result of proposed modifications to the application of the ''higher of'' calculation methodology.

On average, the five Sponsored Members would be subject to the ''higher of'' calculation methodology for approximately 159 out of the 398 Business Days (or approximately 40%) during the Impact Study Period, with one Sponsored Member being subject to the ''higher of'' calculation methodology for 381 days out of the 398-day Impact Study Period (or approximately 96%).

The average daily increase in VaR Charge in dollars for the five Sponsored Members would be approximately $144.6 million (or approximately 19% of the average daily VaR Charge that would otherwise be assessed on the five Sponsored Members).

The five largest daily increases in VaR Charge in dollars for the five Sponsored Members would be approximately $826.1 million (or approximately 51.7%), $697.1 million (or approximately 47.3%), $692.5 million (or approximately 41.8%), $689.6 million (or approximately 46.9%), and $682.6 million (or approximately 40.7%).

The five largest daily increases in VaR Charge for the five Sponsored Members as percentages of the relevant Sponsored Member's daily VaR Charge that would otherwise be assessed on the Sponsored Members would be approximately 59.7% (or $312.8 million), 55.8% (or $361.2 million), 52.8% (or $209.9 million), 52.6% (or $208.3 million), and 52.5% (or $203.8 million).

As proposed, FICC would no longer automatically apply the ''higher of'' calculation methodology to a Sponsoring Member's Sponsoring Member Omnibus Account. Accordingly, the 665 Sponsored Members that would have been assessed a higher VaR Charge under the current GSD Rules would each have, on average, a daily reduction in their VaR Charges of approximately $20.2 million (or approximately 32% of the average daily VaR Charge that would otherwise be assessed on the Sponsored Member).

Implementation Timeframe

FICC would implement the proposed rule change by no later than 60 Business Days after the approval of the proposed rule change by the Commission. FICC would announce the effective date of the proposed changes by an Important Notice posted to its website.

2. Statutory Basis

FICC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[27] and Rules 17ad–22(e)(4), (e)(6)(i), and (e)(19) each promulgated under the Act,[28] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the GSD Rules be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and be designed to promote the prompt and accurate clearance and settlement of securities transactions.[29] FICC believes the proposed changes to enhance the risk management of indirect participants are designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because these changes are designed to mitigate risks to FICC arising out of a Member's indirect participant activities. Specifically, the proposed changes would enable FICC to assess a higher margin on those Sponsored Members and Segregated Indirect Participants whose activity level exceeds a specified liquidity threshold. Doing so would enable FICC to more accurately assess the margin required to cover risks arising from the activities of indirect participants such that, in the event of a Member default, FICC would be able to mitigate potential losses associated with liquidating the defaulting Member's portfolio so that FICC's operations would not be disrupted, and non-defaulting Members would not be exposed to losses they cannot anticipate or control. In this way, these proposed changes are designed to enhance FICC's risk management and its ability to assure the safe return of funds and securities by ensuring that the margin requirements take due and appropriate account of the risk arising from indirect participants' activities and thus reducing the potential risk to FICC arising from indirect participant transactions. Accordingly, these changes would support FICC's compliance with Section 17A(b)(3)(F) by further assuring FICC's safeguarding of securities and funds in its control and for which it is responsible.[30]

The proposed rule changes to enhance the risk management of indirect participants have also been designed to be consistent with Rules 17ad–22(e)(4),

[24] *See* GSD Rule 1 (definition of ''Receive Obligation''), *supra* note 3.

[25] *See* GSD Rule 1 (definition of ''Funds-Only Settlement Amounts''), *supra* note 3.

[26] Due to data limitation, the impact study did not include Funds-Only Settlement Amounts from April 1, 2024 to March 23, 2025.

[27] 15 U.S.C. 78d–2(b)(3)(F).

[28] 17 CFR 240.17ad–22(e)(4), (e)(6)(i), and (e)(19).

[29] 15 U.S.C. 78d–2(b)(3)(F).

[30] *Id.*

(e)(6)(i), and (e)(19) under the Act.[31] Rule 17ad–22(e)(4) requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes.[32] The proposed changes to enhance the risk management of indirect participants address the identification, measurement, monitoring and management of credit exposures that may arise from indirect participant activities. Specifically, by modifying the application of the ''higher of'' calculation methodology to include each Sponsored Member and/or Segregated Indirect Participant whose activity level exceeds a specified liquidity threshold, the proposed changes would enable FICC to have rule provisions that are reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to indirect participants and those exposures arising from its payment, clearing, and settlement processes, which FICC believes is consistent with Rule 17ad–22(e)(4).

Rule 17ad–22(e)(6)(i) requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[33] FICC believes that the proposed changes to enhance the risk management of indirect participants as described herein are consistent with the requirements of Rule 17ad–22(e)(6)(i) cited above. The proposed changes to modify the application of the ''higher of'' calculation methodology to include each Sponsored Member and/or Segregated Indirect Participant whose activity level exceeds a specified liquidity threshold would help to ensure that margin levels are commensurate with the risk exposure presented by the indirect participant activities submitted to FICC by the Members. These proposed changes would help ensure that the margin that FICC collects from Members is sufficient to mitigate the credit exposure presented by the activities that Members submit to FICC on behalf of indirect participants. Overall, the proposed changes would allow FICC to more effectively address the risks presented by Members and indirect participants. In this way, the proposed changes enhance the ability of FICC to produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market. As such, FICC believes that the proposed changes are consistent with the requirements of Rule 17ad–22(e)(6)(i) under the Act.[34]

Rule 17ad–22(e)(19) requires FICC to identify, monitor, and manage the material risks to FICC arising from arrangements in which firms that are indirect participants in FICC rely on the services provided by direct participants to access FICC's clearance and settlement facilities.[35] FICC believes that the proposed changes to enhance the risk management of indirect participants as described herein are consistent with the requirements of Rule 17ad–22(e)(19) cited above. The proposed changes to modify the application of the ''higher of'' calculation methodology to include each Sponsored Member and/or Segregated Indirect Participant whose activity level exceeds a specified liquidity threshold is appropriate to manage the potential risk to FICC arising from indirect participant transactions. These proposed changes would ensure that the margin FICC collects from Members is sufficient to mitigate the credit exposure presented by the activities that Members submit to FICC on behalf of indirect participants. Overall, the proposed changes would allow FICC to more effectively address the risks presented by indirect participants. In this way, the proposed changes enhance the ability of FICC to identify, monitor, and manage the material risks to FICC arising from arrangements in which firms that are indirect participants in FICC rely on the services provided by direct participants to access FICC's clearance and settlement facilities. As such, FICC believes that the proposed changes are consistent with the requirements of Rule 17ad–22(e)(19) under the Act.[36]

(B) Clearing Agency's Statement on Burden on Competition

FICC believes the proposed rule changes to enhance the risk management of indirect participants could impose a burden on competition. As a result of the proposed rule changes, participants may experience increases in their Required Fund Deposits and/or Segregated Customer Margin Requirements. Such increases could burden participants that have lower operating margins or higher costs of capital than other participants. It is not clear whether the burden on competition would necessarily be significant because it would depend on whether the affected participants were similarly situated in terms of business type and size. Regardless of whether the burden on competition is significant, FICC believes that any burden on competition would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[37]

Specifically, FICC believes that the proposed rule changes to enhance the risk management of indirect participants would be necessary in furtherance of the Act, as described in this filing and further below. FICC believes that the above-described burden on competition that may be created by the proposed changes is necessary. This is because the GSD Rules must be designed to assure the safeguarding of securities and funds that are in FICC's custody or control or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[38] As described above, FICC believes that the proposed rule changes to enhance the risk management of indirect participants would enable FICC to better address risk exposure arising from the indirect participant activities. As such, the proposed changes to enhance the risk management of indirect participants are designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[39]

FICC also believes these proposed changes to enhance the risk management of indirect participants are necessary to support FICC's compliance with Rules 17ad–22(e)(4), (e)(6)(i), and (e)(19) under the Act,[40] which require FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to (x) effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, (y) cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market,

[31] 17 CFR 240.17ad–22(e)(4), (e)(6)(i), and (e)(19).
[32] 17 CFR 240.17ad–22(e)(4).
[33] 17 CFR 240.17ad–22(e)(6)(i).
[34] *Id.*
[35] 17 CFR 240.17ad–22(e)(19).
[36] *Id.*
[37] 15 U.S.C. 78d–2(b)(3)(I).
[38] 15 U.S.C. 78d–2(b)(3)(F).
[39] *Id.*
[40] 17 CFR 240.17ad–22(e)(4), (e)(6)(i), (e)(19).

and (z) identify, monitor, and manage the material risks to FICC arising from arrangements in which firms that are indirect participants in FICC rely on the services provided by direct participants to access FICC's clearance and settlement facilities. As described above, FICC believes that these proposed changes to enhance the risk management of indirect participants would allow FICC to more effectively mitigate risk exposure arising out of indirect participant activities and therefore would allow FICC to effectively identify, measure, monitor, and manage its credit exposures to participants; better limit FICC's credit exposures to participants and producing margin levels commensurate with the risks and particular attributes of each relevant product and portfolio; and more effectively address the risks presented by indirect participants, consistent with the requirements of Rules 17ad–22(e)(4), (e)(6)(i), and (e)(19) under the Act.[41]

FICC also believes that the above-described burden on competition that could be created by the proposed changes would be appropriate in furtherance of the Act because such changes have been appropriately designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, as described in detail above. The proposed changes to enhance the risk management of indirect participants are specifically designed to cover excessive risk exposures posed by a Sponsored Member and/or a Segregated Indirect Participant whose activity level exceeds a specified liquidity threshold (*i.e.,* when the total liquidity needs arise from the Sponsored Member's/Segregated Indirect Participant's activities across all Accounts exceed FICC's daily liquidity need). The ''higher of'' calculation methodology that would be applied by FICC as a result of such proposed changes for a particular Sponsored Member and/or Segregated Indirect Participant would be necessary and in direct relation to the specific risks presented by such indirect participant's activities. Any increase in Required Fund Deposit and/or proposed Segregated Customer Margin Requirement as a result of such proposed changes for a particular Sponsored Member and/or Segregated Indirect Participant would be in direct relation to the specific risks presented by such indirect participant's activities. Accordingly, participants with portfolios that present similar risks, regardless of the type of participant, would have similar impacts on their Required Fund Deposit and/or Segregated Customer Margin Requirement amounts. Therefore, because the proposed changes are designed to provide FICC with a more appropriate and complete measure of the risks presented by indirect participants' activities, FICC believes the proposals are appropriately designed to meet its risk management goals and its regulatory obligations.

Accordingly, FICC does not believe that the proposed changes to enhance the risk management of indirect participants would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[42]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at www.sec.gov/rules-regulations/how-submit-comment.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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–FICC–2026–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–FICC–2026–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of FICC and on DTCC's website (*www.dtcc.com/legal/sec-rule-filings*). 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–FICC–2026–003 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02228 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

[41] *Id.*

[42] 15.U.S.C. 78d–2(b)(3)(I).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104756; File No. SR–CboeEDGA–2026–002]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.10(d) (''EdgeRisk Self Trade Prevention (''ERSTP'') Modifiers'') To Revise the Definition of Unique Identifier

January 30, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2026, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') proposes to amend Exchange Rule 11.10(d) (''EdgeRisk Self Trade Prevention (''ERSTP'') Modifiers'') to revise the definition of Unique Identifier. The Exchange has designated this proposal as non-controversial pursuant to Rule 19b–4(f)(6)(iii) under the Act.[5] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.10(d) (''EdgeRisk Self Trade Prevention (''ERSTP'') Modifiers) by revising the definition of Unique Identifier. This proposed change is a result of User feedback and implementation difficulties that the Exchange has encountered while trying to apply ERSTP based on current Rule 11.10(d), which requires Users [6] to have the same Unique Identifier on each order. As discussed *infra,* the current rule text provides that a Unique Identifier may originate from a specific set of User characteristics. The Exchange now seeks to revise the definition of Unique Identifier and instead provide for three situations in which a Unique Identifier may be generated. The Exchange believes this change would allow for more flexibility in determining which Users are issued a Unique Identifier without compromising the purpose of Rule 11.10(d) and match trade prevention generally. Additionally, the Exchange proposes to include rule text that provides that a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.10(d) must complete an Exchange-provided attestation. The Exchange emphasizes that ERSTP is entirely optional and is not required. As is the case with the existing risk tools, Users, and not the Exchange, have full responsibility for ensuring that their orders comply with applicable securities rules, laws, and regulations. Furthermore, as is the case with the existing risk settings, the Exchange does not believe that the use of the proposed ERSTP functionality can replace User-managed risk management solutions.

Currently, any incoming order designated with an ERSTP modifier will be prevented from executing against a resting opposite side order also designated with an ERSTP modifier and originating from the same market participant identifier (''MPID''),[7] Exchange Member identifier, ERSTP Group identifier, affiliate identifier, or Multiple Access identifier (any such identifier, a ''Unique Identifier'').[8] Both the buy and the sell order must include the same Unique Identifier in order to prevent an execution from occurring and to effect a cancel instruction based on the ERSTP modifier appended to each order. In order to describe how ERSTP functionality may be applied by Users today, the Exchange has provided a brief description of how each Unique Identifier enables ERSTP.

A User who enables ERSTP functionality using the MPID Unique Identifier will prevent contra side executions between the same MPID from occurring. A User who enables ERSTP using the Exchange Member Unique Identifier would prevent contra side executions between any MPID associated with that User and not just a single MPID. The ERSTP Group Unique Identifier permits Users to prevent matched trades amongst traders or desks within a certain firm but allows orders from outside such group or desk to interact with other firm orders. The affiliate identifier is a Unique Identifier that permits ERSTP to be enabled by firms with a control relationship. The affiliate identifier is only available to Users where: (i) greater than 50% ownership is identified in a User's Form BD; and (ii) the Users execute an affidavit stating that a control relationship exists between the two Users. The Multiple Access identifier is available to Users that submit orders to the Exchange both through a direct connection as well as through Sponsored Access. In each instance where an order is appended with a Unique Identifier, the Exchange is utilizing an already existing identifier (*e.g.,* MPID or Exchange Member identifier) or creating an identifier in order to enable ERSTP between two separate Users where there would otherwise not be a common identifier (*e.g.,* affiliate identifier or Multiple Access identifier).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Exchange Rule 1.5(ee). ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' The ''System'' is ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc). The term ''Member'' means any registered broker or dealer that has been admitted to membership in the Exchange. *See* Exchange Rule 1.5(n).

[7] An MPID is a four-character unique identifier that is approved by the Exchange and assigned to a Member for use on the Exchange to identify the Member firm on the orders sent to the Exchange and resulting executions.

[8] *See* Exchange Rule 11.10(d).

Based on User feedback and implementation difficulties that the Exchange has encountered while seeking to apply ERSTP based its current definition of Unique Identifier, the Exchange now proposes to amend Rule 11.10(d) by revising the definition of Unique Identifier to eliminate the specific Unique Identifier types and instead providing for three situations in which a Unique Identifier may be generated. As proposed, Rule 11.10(d) would provide that a Unique Identifier may be created at: (i) the MPID level; (ii) the firm level (*e.g.,* Exchange Member identifier, ERSTP Group identifier); or (iii) where the User indicates that ERSTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership.

The Exchange believes this change is necessary as Users with legitimate reasons for seeking to enable ERSTP are choosing to submit order flow to the Exchange through various constructs that do not align with the current definitions applicable to Unique Identifiers available under current Rule 11.10(d). The proposed changes do not change how ERSTP will function from an operational perspective. Both the incoming order and the resting opposite side order must continue to be designated with an ERSTP modifier [9] (in addition to a Unique Identifier) in order for ERSTP to apply. The ERSTP modifier on the incoming order will control the interaction between two orders marked with ERSTP modifiers. This proposal is only intended to amend when the Exchange may create a Unique Identifier for a User (or multiple Users) to enable ERSTP when there is otherwise no common identifier available. As is the case under existing Rule 11.10(d), a Unique Identifier will continue to include an MPID, an Exchange Member identifier, or an ERSTP Group identifier—each of which can be categorized under either the (i) MPID level or (ii) the firm level in the proposed rule text. These Unique Identifiers are based on existing identifiers that the Exchange does not specially create for Users and are already being utilized in other formats by the Exchange when a User requests to use ERSTP. However, when a User requests to utilize ERSTP and is doing so based on the current affiliate identifier or current Multiple Access identifier, the Exchange manually creates the applicable Unique Identifier for the User and must ensure that the User satisfies the requirements to obtain an affiliate identifier or Multiple Access identifier prescribed in Rule 11.10(d).

The Exchange has received feedback from firms who would like to employ ERSTP utilizing the current affiliate identifier or the current Multiple Access identifier that it is unclear whether particular use cases would qualify for ERSTP utilizing those particular identifiers based on the definition of those terms currently found in Rule 11.10(d). As such, the Exchange is proposing to remove the terms affiliate identifier and Multiple Access identifier from the definition of Unique Identifier in Rule 11.10 and replace those terms with a concept that more accurately captures a User's basis for wanting to utilize ERSTP as a basis for creating a Unique Identifier. The proposed rule text in Rule 11.10(d) that provides for the creation of a Unique Identifier ''. . . (iii) where the User indicates that ERSTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership[.]'' is based in the concept of the federal securities laws' prohibition on wash sales [10] and FINRA Rule 5210 concerning self-trades.[11] [12] Importantly, the proposed revised definition of Unique Identifier, particularly item (iii), would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition. The Exchange notes that any User seeking to utilize proposed item (iii) of Rule 11.10(d) will be required to complete an Exchange-provided attestation before the Unique Identifier is created.[13]

The Exchange proposes to introduce subsection (iii) of Rule 11.10(d) to account for situations where a firm seeks to enable ERSTP in order to prevent transactions in securities in which there is no change in beneficial ownership but where the User does not have an existing Unique Identifier at the MPID or firm level that may be utilized to enable ERSTP. For instance, a firm may employ different trading strategies across different trading desks and choose to send orders for one strategy to the Exchange through one Sponsored Participant [14] while the other strategy is sent through a third party who also accesses the Exchange as a Sponsored Participant.[15] While each trading desk is sending its order flow as a Sponsored Participant, the Sponsored Participants are using different Sponsoring Members [16] to connect to the Exchange and thus the Exchange cannot apply the same Unique Identifier to each respective trading desk even though the trading desks are from the same firm. Additionally, a firm may utilize

[9] *See* Rule 11.10(d)(1)–(5). Generally, Users may elect to cancel the incoming order, cancel the resting order, cancel both orders, cancel the smallest order, or reduce the size of the larger order by the size of the smaller order.

[10] A ''wash sale'' is generally defined as a trade involving no change in beneficial ownership that is intended to produce the false appearance of trading and is strictly prohibited under both the federal securities laws and FINRA rules. *See, e.g.,* 15 U.S.C. 78i(a)(1); FINRA Rule 6140(b) (''Other Trading Practices'').

[11] Self-trades are ''transactions in a security resulting from the unintentional interaction of orders originating from the same firm that involve no change in beneficial ownership of the security.'' FINRA requires members to have policies and procedures in place that are reasonably designed to review trading activity for, and prevent, a pattern or practice of self-trades resulting from orders originating from a single algorithm or trading desk, or related algorithms or trading desks. *See* FINRA Rule 5210, Supplementary Material .02.

[12] The Exchange does not guarantee that ERSTP is sufficiently comprehensive to be the exclusive means by which a User can satisfy its obligations under the Exchange's rules regarding a User's supervisory obligations. ERSTP is designed to serve as a supplemental tool that may be utilized by Users and the Exchange generally does not believe that its use can replace User-based managed risk solutions and notes that ERSTP was not designed as a sole means of risk control. The User, and not the Exchange, retains full responsibility for complying with such regulatory requirements and must perform its own appropriate due diligence to ensure that ERSTP is reasonably designed to be effective, and otherwise consistent with the User's supervisory obligations. The Commission has stated that broker-dealers may not rely merely on representations of the technology provider, even if an exchange or other regulated entity, to meet this due diligence standard. *See,* Securities Exchange Act Release No. 63241 (November 15, 2010), 75 FR 69792 at 69798. *See also,* Reponses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, Division of Trading and Markets, Question No. 5, April 15, 2014. Available at: *https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/divisionsmarketregfaq-0.*

[13] The Exchange will not require an attestation from Users who are able to utilize the MPID level or firm level Unique Identifiers as those Users have existing documentation in place that allows for the utilization of a Unique Identifier (*e.g.,* MPID, Exchange Member identifier, Sponsored Participant identifier, or trading group identifier) that is not manually created by the Exchange.

[14] *See* Rule 1.5(z). The term ''Sponsored Participant'' shall mean a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3.

[15] The Exchange notes that there may be instances where transactions between two trading desks from the same firm would be considered bona fide transactions (*e.g.,* sufficient information barriers exist), but if the firm is requesting to utilize ERSTP then there is a presumption that the firm believes that transactions between the subject trading desk would result in a self-trade.

[16] *See* Rule 1.5(aa). The term ''Sponsoring Member'' shall mean a broker-dealer that has been issued a membership by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring Member shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.

multiple broker-dealers in multiple jurisdictions to implement its trading strategy at different hours of the day. For example, a firm's US-based broker-dealer may be primarily responsible for entering orders during Regular Trading Hours,[17] while the firm's European-based broker-dealer may be primarily responsible for entering orders during the Early Trading Session.[18] Various other considerations (*e.g.,* business needs, cost, technology limitations, etc.) also factor in to a firm's decision into how it submits order flow to the Exchange.

For example, consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 seeks to enable ERSTP against User 2, which is a related entity of the same firm. User 1 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 2 is a European-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. User 1 and User 2 may not utilize the Sponsored Participant identifier because the Users submit orders through two different Sponsoring Members that have different Sponsored Participant identifiers. Additionally, User 1 and User 2 may not utilize the affiliate identifier because Form BD does not indicate at least a 50% ownership as proof that a control relationship exists. However, both User 1 and User 2 are controlled by the same parent company and believe that no change in beneficial ownership of the security will occur should User 1 and User 2 execute a transaction against one another.

Also consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 is attempting to enable ERSTP against both User 2 and User 3, all of which are related entities of the same firm. User 1 is a US-based broker-dealer that submits orders directly to the Exchange and has its own MPID and Exchange Member identifier. User 2 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 3 is a foreign broker-dealer that submits orders to the Exchange through a US-based broker-dealer (Firm 1). Firm 1 submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. In this particular example, User 1 would be eligible to enable ERSTP against User 2 using the multiple access Unique Identifier, as the firm has attested to being (i) a Member of the Exchange that submits orders directly to the System, and (ii) submitting orders to the System through a Sponsored Access arrangement. User 1 would also be eligible to enable ERSTP against User 3 using the multiple access Unique Identifier. While ultimately ERSTP can be enabled by User 1 against both User 2 and User 3, User 1 would need to complete multiple attestations in order to receive a multiple access identifier because User 2 and User 3 are submitting orders to the Exchange through different Sponsoring Members.

The Exchange plans to implement the proposed rule change during the first quarter of 2026 and will announce the implementation date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] 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)[21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed revised definition of Unique Identifier promotes just and equitable principles of trade by allowing individual firms to better manage order flow and prevent undesirable trading activity such as wash sales[22] or self-trades[23] that may occur as a result of the velocity of trading in today's high-speed marketplace. The proposed revised definition of Unique Identifier does not introduce any new or novel functionality, as the proposed amendment does not change the underlying ERSTP functionality, but rather will provide Users with the ability to request ERSTP in situations that do not fit under the Exchange's current definition of Unique Identifier but for which the User has a valid reason to believe that no change in beneficial ownership will occur as a result of a transaction. For instance, a User may operate trading desk 1 that accesses the Exchange as a Sponsored Participant through one Sponsoring Member, as well as trading desk 2 that access the Exchange as a Sponsored Participant through a different Sponsoring Member. While these desks may operate different trading strategies, a User may desire to prevent these desks from trading versus each other in the marketplace because the orders are originating from the same entity.

As described in the above example, Users may desire ERSTP functionality in order to help them achieve compliance[24] with regulatory rules regarding wash sales and self-trades in a very similar manner to the way that current ERSTP functionality applies on the existing Sponsored Participant identifier level, but that the Exchange currently cannot enable because the Users are submitting order flow as Sponsored Participant through different Sponsoring Members. In this regard, the proposed revised definition of Unique Identifier will allow Users to enable ERSTP in situations where it is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership but that the Exchange's current rule does not contemplate. This proposed change does not change the operation or purpose of ERSTP, but rather provides Users with three situations[25] in which a Unique Identifier may be created to enable ERSTP. The Exchange notes that the proposed revised definition of Unique Identifier would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition.

[17] *See* Rule 1.5(y). The term ''Regular Trading Hours'' shall mean the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[18] *See* Rule 1.5(jj). The term ''Early Trading Session'' shall mean the time between 7:00 a.m. and 8:00 a.m. Eastern Time.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *Supra* note 10.

[23] *Supra* note 11.

[24] *Supra* note 12. The Exchange reminds Users that while they may utilize ERSTP to help prevent potential transactions such as wash sales or self-trades, Users, not the Exchange, are ultimately responsible for ensuring that their orders comply with applicable rules, laws, and regulations.

[25] The Exchange notes that two of the proposed instances (MPID and firm level) are not changing from the current definition of Unique Identifier. Only the proposed third instance is a change from the current rule text.

In addition, the Exchange believes that the proposed rule text promotes just and equitable principles of trade, is designed to prevent fraudulent and manipulative acts and practices, and in general protects investors and the public interest because it requires a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.10(d) to complete an attestation prior to the creation of the Unique Identifier. The Exchange believes that requiring Users requesting a Unique Identifier pursuant to item (iii) of Rule 11.10(d) to complete an Exchange-provided attestation will help ensure that a Unique Identifier created pursuant to item (iii) of Rule 11.10(d) is not done for frivolous reasons or to block executions between Users where a change of beneficial ownership would otherwise occur.

The Exchange also believes that the proposed rule change is fair and equitable and is not designed to permit unfair discrimination as ERSTP is available to all Users, its functionality remains optional, and its use is not a prerequisite for trading on the Exchange.

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. ERSTP is an optional functionality offered by the Exchange and Users are free to decide whether to use ERSTP in their decision-making process when submitting orders to the Exchange.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any intramarket competition as it seeks to enhance an existing functionality available to all Users. The Exchange is not proposing to introduce any new or novel functionality, but rather is proposing to provide an extension of its existing ERSTP functionality to Users who seek to prevent transactions in securities in which there is no change of beneficial ownership. Importantly, the proposed rule does not change how ERSTP operates on the Exchange and ERSTP will continue to be available to any User who requests a Unique Identifier and satisfies the required criteria. Additionally, the proposed revised definition of Unique Identifier would continue to capture the current concepts covered by the existing affiliate identifier and Multiple Access identifier. ERSTP will continue to be an optional functionality offered by the Exchange and the revised definition of Unique Identifier will not change how the current Unique Identifiers and ERSTP functionality operate.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any undue burden on intermarket competition. ERSTP is an optional functionality offered by the Exchange and Users are not required to use ERSTP functionality when submitting orders to the Exchange. Further, the Exchange is not required to offer ERSTP and is choosing to do so as a benefit for Users who wish to enable ERSTP functionality. Moreover, the proposed change is not being submitted for competitive reasons, but rather to provide Users enhanced order processing functionality that may prevent undesirable executions by affiliated Users such as wash sales or self-trades when no change of beneficial ownership occurs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[26] and Rule 19b–4(f)(6) thereunder.[27] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[28] and Rule 19b–4(f)(6)(iii) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6)[30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay is appropriate because the proposed rule change: (1) does not change how the current ERSTP functionality on the Exchange works, (2) will allow additional Users to enable ERSTP pursuant to the revised definition of Unique Identifier on an earlier timeline, and (3) revises the definition of Unique Identifier to prevent transactions in securities where there is no change in beneficial ownership in instances that an existing Unique Identifier would not enable the ERSTP modifier. The Commission believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because this proposed rule change does not present any novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[32]

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–CboeEDGA–2026–002 on the subject line.

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] 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).

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–CboeEDGA–2026–002. 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–CboeEDGA–2026–002 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02218 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104751; File No. SR–NYSEARCA–2026–07]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule To Modify Certain Fees and Rebates Applicable to Lead Market Makers and NYSE Arca Market Makers and Floor Brokers

January 30, 2026.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 28, 2026, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule'') regarding fees and rebates applicable to Lead Market Makers and NYSE Arca Market Makers and Floor Brokers. The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to modify fees and rebates applicable to Lead Market Makers (''LMMs'') and NYSE Arca Market Makers (collectively, ''Market Makers'') and Floor Brokers. Specifically, the Exchange proposes to (1) extend a current surcharge that applies to certain complex orders to any Market Maker order on the Trading Floor that is a counterparty to a complex Manual trade executed by a Floor Broker, and (2) establish a rebate payable to Floor Brokers for such trades with a Market Maker order on the Trading Floor. The Exchange proposes the fee change to be effective January 28, 2026.[4]

The Exchange currently charges a surcharge of $0.12 per contract that is applied to an electronic Non-Customer Complex Order that executes against a Customer Complex Order (the ''Non-Customer Complex Surcharge''). The Non-Customer Complex Surcharge is consistent with surcharges imposed by other options exchanges.[5] The Non-Customer Complex Surcharge is denoted with an ''*'' in the transaction fee table in the Electronic Complex Order Executions section of the Fee Schedule. The Exchange proposes to extend the current surcharge of $0.12 per contract to any Market Maker order on the Trading Floor that is a counterparty to a complex[6] Manual trade executed by a Floor Broker, and to establish a rebate of $0.20 per contract payable to the Floor Broker side of such trades. For Floor Brokers that participate in the FB Prepay Program, the proposed rebate would apply in lieu of any rebates earned through the Manual Billable Rebate Program as provided in the Fee Schedule. Although the proposed change would increase the fee for complex Manual transactions for Market Makers, the Exchange believes these participants will continue to quote actively to participate in transactions on the Trading Floor as they do today, thereby promoting trading opportunities and competition on the Trading Floor to the benefit of all market participants. The Exchange also believes that the proposed rebate would continue to incentivize Floor Brokers to participate on the Trading Floor, including when the counterparty to such trading is a Market Maker.

To reflect the changes proposed herein, the Exchange proposes to adopt a new endnote ''18'' that would be appended to Order Types LMM and NYSE Arca Market Maker in the section of the Fee Schedule titled ''TRANSACTION FEE FOR MANUAL EXECUTIONS—PER CONTRACT''. The Exchange also proposes to replace the ''*'' that denotes the Non-Customer Complex Surcharge noted above with proposed new endnote ''18''. The Exchange also proposes to delete the text describing the Non-Customer Complex Surcharge in the ''*'' and move it to proposed new endnote ''18''. Finally, the Exchange proposes a change to the heading of the pricing table titled ''Discount on Non-Customer Complex Surcharge'' by adding the words ''for Electronic Executions'' to clarify that such discounts would not apply to

[33] 17 CFR 200.30–3(a)(12) and (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange previously filed to amend the Fee Schedule on January 2, 2026 (SR–NYSEARCA–2026–02), then withdrew such filing and amended the Fee Schedule on January 16, 2026 (SR–NYSEARCA–2026–05), which latter filing the Exchange withdrew on January 28, 2026.

[5] *See, e.g.,* NYSE American Options Fee Schedule, Section I.A. (Rates for Options transactions), footnote 5 (assessing $0.12 per contract surcharge to any Electronic Non-Customer Complex Order that executes against a Customer Complex Order); MIAX Options Fee Schedule, Sections 1)a)i)–ii) (assessing a $0.12 per contract surcharge for trading against a Priority Customer Complex Order for Penny and Non-Penny classes).

[6] A complex order, for purposes of this proposed change, is any order other than an order to purchase or sell contracts in a single listed option series.

Manual Complex Orders. The proposed changes with respect to the Non-Customer Complex Surcharge are intended to clarify the application of the existing fee, rather than to make any substantive changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its 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.'' [9]

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[10] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2025, the Exchange had 10.67% market share of executed volume of multiply-listed equity and ETF options trades.[11] In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of options order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

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 or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

The Exchange believes that the proposed rebate would incentivize Floor Brokers to direct additional complex Manual orders to the Exchange, thereby creating more trading opportunities on the Trading Floor for all market participants, including Market Makers. The Exchange thus believes that, despite the proposed surcharge on Market Maker orders that are counterparty to such Floor Broker orders, Market Makers would not be discouraged from continuing to quote and trade actively on the Exchange.

The Exchange believes that the proposed changes are reasonably designed to incent Floor Brokers (and other participants on the Trading Floor) to increase the number of Manual orders sent to the Exchange. Any increase in trading volume would create more trading opportunities for all market participants and would in turn attract additional order flow to the Exchange, further contributing to a deeper, more liquid market to the benefit of all market participants. The Exchange also notes that the proposed rebate is similar in structure to incentive programs for Floor Brokers offered by competing options exchanges.[12]

The Exchange further believes the surcharge is reasonable because it is designed to offset costs associated with the proposed rebate payable to Floor Brokers when they interact with Market Makers on the Trading Floor. To the extent this purpose is achieved, the Exchange believes that the proposed surcharge would not disincentivize Market Maker activity on the Trading Floor because increased order flow from Floor Brokers seeking to earn the proposed rebate would result in more opportunities to trade for all market participants.

To the extent the proposed rule change continues to attract greater volume and liquidity by encouraging Floor Brokers to increase their options volume on the Exchange in an effort to earn the proposed rebate, the Exchange believes the proposed changes would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. Against the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits because the proposed rebate is based on the amount and type of business transacted on the Exchange, and Floor Brokers can try to earn the proposed rebate, or not. The Exchange also believes that the proposed surcharge is equitable because it is designed to balance costs associated with encouraging increased execution opportunities on the Trading Floor, and an increase in such orders would in turn enhance trading opportunities for all market participants. The Exchange also believes that the proposed rebate to Floor Brokers is an equitable allocation of fees and credits because it is intended to support Floor Brokers' role in facilitating the execution of Manual orders, which function benefits all market participants on the Trading Floor.

Moreover, the proposal is designed to incent participation on the Trading Floor in an effort to make the Exchange a primary execution venue and to attract more Manual transactions to the Exchange. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[10] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[11] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options decreased from 13.22% in November 2024 to 10.67% for the month of November 2025.

[12] *See, e.g.,* BOX Exchange Fee Schedule, Section V. Manual Transaction Fees, available at *https://boxexchange.com/assets/BOX-Fee-Schedule-as-of-January-22-2026.pdf* (offering Floor Brokers that submit QOO and FOO Orders a $0.20 per contract enhanced rebate for executions that trade with a Floor Market Maker, in lieu of lesser per contract rebates also available to Floor Brokers); MIAX Sapphire Options Exchange, Section 1) c) Trading Floor Transactions, available at *https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Sapphire_Fee_Schedule_01212026_b.pdf* (providing for the ''Floor Broker Breakup Credit,'' a $0.20 credit applicable to Floor Brokers that submit a QFO or cQFO for executions that trade with a Floor Market Maker, instead of the $0.10 Floor Broker rebate otherwise available).

improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to impose a surcharge on Market Maker orders on the Trading Floor that are a counterparty to a complex Manual trade executed by a Floor Broker because the proposed change would apply to all Market Maker orders equally, and as discussed above, the Exchange believes it is not unfairly discriminatory to incent order flow to the Exchange, which would enhance liquidity on the Exchange to the benefit of all market participants. The Exchange also believes that the proposed rebate payable to Floor Brokers for a complex Manual order that trades with a Floor Market Maker order is not unfairly discriminatory because it would be available to all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange further believes that the proposed rebate available to Floor Brokers is not unfairly discriminatory to other market participants because it is intended to encourage the role performed by Floor Brokers in facilitating the execution of orders via open outcry, a function which the Exchange wishes to support for the benefit of all market participants. In addition, although the proposed change would apply a surcharge to Market Maker orders that trade with Floor Broker complex Manual orders, the Exchange believes that Market Makers would not be discouraged from continuing to participate actively on the Trading Floor and would benefit from increased Floor Broker order flow as a result of the proposed change. To the extent that this increased order flow attracts order flow from other market participants to the Trading Floor, the proposed rule change would improve market quality and promote additional trading opportunities for all market participants on the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [13]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed surcharge on Market Maker orders on the Trading Floor that are a counterparty to complex Manual trades executed by a Floor Broker, and the proposed rebate payable to the Floor Broker side of such trades would encourage Floor Broker complex Manual order flow and would not disincentivize Market Maker activity on the Trading Floor. Greater liquidity benefits all market participants on the Exchange and increased order flow would increase opportunities for execution of other trading interest. The proposed modifications would apply and be available to all similarly-situated market participants that execute Manual transactions on the Trading Floor, and, accordingly, the proposed changes would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the other 17 competing options exchanges if they deem the Exchange's fee levels to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[14] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2025, the Exchange had 10.67% market share of executed volume of multiply-listed equity and ETF options trades.[15]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to continue to incent participants on the Trading Floor to direct trading interest to the Exchange, to provide liquidity and to attract additional order flow. To the extent that Floor Brokers are encouraged to utilize the Exchange as a primary trading venue for all transactions, all Exchange market participants stand to benefit from the improved market quality and increased opportunities for price improvement. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [16] of the Act and subparagraph (f)(2) of Rule 19b–4 [17] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of

[13] *See* Reg NMS Adopting Release, *supra* note 9, at 37499.

[14] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[15] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options decreased from 13.22% in November 2024 to 10.67% for the month of November 2025.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(2).

the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2026–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2026–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2026–07 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02225 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104759; File No. SR–CboeBZX–2026–010]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.9(f) (''Match Trade Prevention (''MTP'') Modifiers'') To Revise the Definition of Unique Identifier

January 30, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2026, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend Exchange Rule 11.9(f) (''Match Trade Prevention (''MTP'') Modifiers'') to revise the definition of Unique Identifier. The Exchange has designated this proposal as non-controversial pursuant to Rule 19b–4(f)(6)(iii) under the Act.[5] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.9(f) (''Match Trade Prevention (''MTP'') Modifiers) by revising the definition of Unique Identifier. This proposed change is a result of User feedback and implementation difficulties that the Exchange has encountered while trying to apply MTP based on current Rule 11.9(f), which requires Users [6] to have the same Unique Identifier on each order. As discussed *infra,* the current rule text provides that a Unique Identifier may originate from a specific set of User characteristics. The Exchange now seeks to revise the definition of Unique Identifier and instead provide for three situations in which a Unique Identifier may be generated. The Exchange believes this change would allow for more flexibility in determining which Users are issued a Unique Identifier without compromising the purpose of Rule 11.9(f) and match trade prevention generally. Additionally, the Exchange proposes to include rule text that provides that a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.9(f) must complete an Exchange-provided attestation. The Exchange emphasizes that MTP is entirely optional and is not required. As is the case with the existing risk tools, Users, and not the Exchange, have full responsibility for ensuring that their orders comply with applicable securities rules, laws, and regulations. Furthermore, as is the case with the existing risk settings, the Exchange does not believe that the use of the proposed MTP functionality can replace User-managed risk management solutions.

Currently, any incoming order designated with an MTP modifier will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Exchange Rule 1.5(cc). ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' The ''System'' is ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(aa). The term ''Member'' means any registered broker or dealer that has been admitted to membership in the Exchange. *See* Exchange Rule 1.5(n).

be prevented from executing against a resting opposite side order also designated with an MTP modifier and originating from the same market participant identifier (''MPID''),[7] Exchange Member identifier, trading group identifier, Exchange Sponsored Participant identifier, affiliate identifier, or Multiple Access identifier (any such identifier, a ''Unique Identifier'').[8] Both the buy and the sell order must include the same Unique Identifier in order to prevent an execution from occurring and to effect a cancel instruction based on the MTP modifier appended to each order. In order to describe how MTP functionality may be applied by Users today, the Exchange has provided a brief description of how each Unique Identifier enables MTP.

A User who enables MTP functionality using the MPID Unique Identifier will prevent contra side executions between the same MPID from occurring. A User who enables MTP using the Exchange Member Unique Identifier would prevent contra side executions between any MPID associated with that User and not just a single MPID. The trading group Unique Identifier permits Users to prevent matched trades amongst traders or desks within a certain firm but allows orders from outside such group or desk to interact with other firm orders. Users who enable MTP functionality using the Exchange Sponsored Participant Unique Identifier will prevent matched trades between contra side orders with an identical Sponsored Participant identifier. The affiliate identifier is a Unique Identifier that permits MTP to be enabled by firms with a control relationship. The affiliate identifier is only available to Users where: (i) greater than 50% ownership is identified in a User's Form BD; and (ii) the Users execute an affidavit stating that a control relationship exists between the two Users. The Multiple Access identifier is available to Users that submit orders to the Exchange both through a direct connection as well as through Sponsored Access. In each instance where an order is appended with a Unique Identifier, the Exchange is utilizing an already existing identifier (*e.g.,* MPID or Exchange Member identifier) or creating an identifier in order to enable MTP between two separate Users where there would otherwise not be a common identifier (*e.g.,* affiliate identifier or Multiple Access identifier).

Based on User feedback and implementation difficulties that the Exchange has encountered while seeking to apply MTP based its current definition of Unique Identifier, the Exchange now proposes to amend Rule 11.9(f) by revising the definition of Unique Identifier to eliminate the specific Unique Identifier types and instead providing for three situations in which a Unique Identifier may be generated. As proposed, Rule 11.9(f) would provide that a Unique Identifier may be created at: (i) the MPID level; (ii) the firm level (*e.g.,* Exchange Member identifier, trading group identifier); or (iii) where the User indicates that MTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership.

The Exchange believes this change is necessary as Users with legitimate reasons for seeking to enable MTP are choosing to submit order flow to the Exchange through various constructs that do not align with the current definitions applicable to Unique Identifiers available under current Rule 11.9(f). The proposed changes do not change how MTP will function from an operational perspective. Both the incoming order and the resting opposite side order must continue to be designated with an MTP modifier [9] (in addition to a Unique Identifier) in order for MTP to apply. The MTP modifier on the incoming order will control the interaction between two orders marked with MTP modifiers, subject to the exception contained in Rule 11.9(f)(3). This proposal is only intended to amend when the Exchange may create a Unique Identifier for a User (or multiple Users) to enable MTP when there is otherwise no common identifier available. As is the case under existing Rule 11.9(f), a Unique Identifier will continue to include an MPID, an Exchange Member identifier, a trading group identifier, or a Sponsored Participant identifier—each of which can be categorized under either the (i) MPID level or (ii) the firm level in the proposed rule text. These Unique Identifiers are based on existing identifiers that the Exchange does not specially create for Users and are already being utilized in other formats by the Exchange when a User requests to use MTP. However, when a User requests to utilize MTP and is doing so based on the current affiliate identifier or current Multiple Access identifier, the Exchange manually creates the applicable Unique Identifier for the User and must ensure that the User satisfies the requirements to obtain an affiliate identifier or Multiple Access identifier prescribed in Rule 11.9(f).

The Exchange has received feedback from firms who would like to employ MTP utilizing the current affiliate identifier or the current Multiple Access identifier that it is unclear whether particular use cases would qualify for MTP utilizing those particular identifiers based on the definition of those terms currently found in Rule 11.9(f). As such, the Exchange is proposing to remove the terms affiliate identifier and Multiple Access identifier from the definition of Unique Identifier in Rule 11.9 and replace those terms with a concept that more accurately captures a User's basis for wanting to utilize MTP as a basis for creating a Unique Identifier. The proposed rule text in Rule 11.9(f) that provides for the creation of a Unique Identifier ''. . . (iii) where the User indicates that MTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership[.]'' is based in the concept of the federal securities laws' prohibition on wash sales [10] and FINRA Rule 5210 concerning self-trades.[11] [12] Importantly,

[7] An MPID is a four-character unique identifier that is approved by the Exchange and assigned to a Member for use on the Exchange to identify the Member firm on the orders sent to the Exchange and resulting executions.

[8] *See* Exchange Rule 11.9(f).

[9] *See* Rule 11.9(f)(1)–(5). Generally, Users may elect to cancel the incoming order, cancel the resting order, cancel both orders, cancel the smallest order, or reduce the size of the larger order by the size of the smaller order.

[10] A ''wash sale'' is generally defined as a trade involving no change in beneficial ownership that is intended to produce the false appearance of trading and is strictly prohibited under both the federal securities laws and FINRA rules. *See, e.g.,* 15 U.S.C. 78i(a)(1); FINRA Rule 6140(b) (''Other Trading Practices'').

[11] Self-trades are ''transactions in a security resulting from the unintentional interaction of orders originating from the same firm that involve no change in beneficial ownership of the security.'' FINRA requires members to have policies and procedures in place that are reasonably designed to review trading activity for, and prevent, a pattern or practice of self-trades resulting from orders originating from a single algorithm or trading desk, or related algorithms or trading desks. *See* FINRA Rule 5210, Supplementary Material .02.

[12] The Exchange does not guarantee that MTP is sufficiently comprehensive to be the exclusive means by which a User can satisfy its obligations under the Exchange's rules regarding a User's supervisory obligations. MTP is designed to serve as a supplemental tool that may be utilized by Users and the Exchange generally does not believe that its use can replace User-based managed risk solutions and notes that MTP was not designed as a sole means of risk control. The User, and not the Exchange, retains full responsibility for complying with such regulatory requirements and must perform its own appropriate due diligence to ensure that MTP is reasonably designed to be effective, and otherwise consistent with the User's supervisory obligations. The Commission has stated that broker-dealers may not rely merely on representations of the technology provider, even if an exchange or other regulated entity, to meet this due diligence standard. *See,* Securities Exchange Act Release No. 63241 (November 15, 2010), 75 FR 69792 at 69798. *See also,* Reponses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, Division of Trading

the proposed revised definition of Unique Identifier, particularly item (iii), would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition. The Exchange notes that any User seeking to utilize proposed item (iii) of Rule 11.9(f) will be required to complete an Exchange-provided attestation before the Unique Identifier is created.[13]

The Exchange proposes to introduce subsection (iii) of Rule 11.9(f) to account for situations where a firm seeks to enable MTP in order to prevent transactions in securities in which there is no change in beneficial ownership but where the User does not have an existing Unique Identifier at the MPID or firm level that may be utilized to enable MTP. For instance, a firm may employ different trading strategies across different trading desks and choose to send orders for one strategy to the Exchange through one Sponsored Participant[14] while the other strategy is sent through a third party who also accesses the Exchange as a Sponsored Participant.[15] While each trading desk is sending its order flow as a Sponsored Participant, the Sponsored Participants are using different Sponsoring Members[16] to connect to the Exchange and thus the Exchange cannot apply the same Unique Identifier to each respective trading desk even though the trading desks are from the same firm. Additionally, a firm may utilize multiple broker-dealers in multiple jurisdictions to implement its trading strategy at different hours of the day. For example, a firm's US-based broker-dealer may be primarily responsible for entering orders during Regular Trading Hours,[17] while the firm's European-based broker-dealer may be primarily responsible for entering orders during the Early Trading Session.[18] Various other considerations (*e.g.,* business needs, cost, technology limitations, etc.) also factor in to a firm's decision into how it submits order flow to the Exchange.

For example, consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 seeks to enable MTP against User 2, which is a related entity of the same firm. User 1 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 2 is a European-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. User 1 and User 2 may not utilize the Sponsored Participant identifier because the Users submit orders through two different Sponsoring Members that have different Sponsored Participant identifiers. Additionally, User 1 and User 2 may not utilize the affiliate identifier because Form BD does not indicate at least a 50% ownership as proof that a control relationship exists. However, both User 1 and User 2 are controlled by the same parent company and believe that no change in beneficial ownership of the security will occur should User 1 and User 2 execute a transaction against one another.

Also consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 is attempting to enable MTP against both User 2 and User 3, all of which are related entities of the same firm. User 1 is a US-based broker-dealer that submits orders directly to the Exchange and has its own MPID and Exchange Member identifier. User 2 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 3 is a foreign broker-dealer that submits orders to the Exchange through a US-based broker-dealer (Firm 1). Firm 1 submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. In this particular example, User 1 would be eligible to enable MTP against User 2 using the multiple access Unique Identifier, as the firm has attested to being (i) a Member of the Exchange that submits orders directly to the System, and (ii) submitting orders to the System through a Sponsored Access arrangement. User 1 would also be eligible to enable MTP against User 3 using the multiple access Unique Identifier. While ultimately MTP can be enabled by User 1 against both User 2 and User 3, User 1 would need to complete multiple attestations in order to receive a multiple access identifier because User 2 and User 3 are submitting orders to the Exchange through different Sponsoring Members.

The Exchange plans to implement the proposed rule change during the first quarter of 2026 and will announce the implementation date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] 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)[21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed revised definition of Unique Identifier promotes just and equitable principles of trade by allowing individual firms to better manage order flow and prevent undesirable trading activity such as wash sales''[22] or self-trades[23] that may occur as a result of the velocity of trading in today's high-speed

and Markets, Question No. 5, April 15, 2014. Available at: *https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/divisionsmarketregfaq-0.*

[13] The Exchange will not require an attestation from Users who are able to utilize the MPID level or firm level Unique Identifiers as those Users have existing documentation in place that allows for the utilization of a Unique Identifier (*e.g.,* MPID, Exchange Member identifier, Sponsored Participant identifier, or trading group identifier) that is not manually created by the Exchange.

[14] *See* Rule 1.5(x). The term ''Sponsored Participant'' shall mean a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3.

[15] The Exchange notes that there may be instances where transactions between two trading desks from the same firm would be considered bona fide transactions (*e.g.,* sufficient information barriers exist), but if the firm is requesting to utilize MTP then there is a presumption that the firm believes that transactions between the subject trading desk would result in a self-trade.

[16] *See* Rule 1.5(y). The term ''Sponsoring Member'' shall mean a broker-dealer that has been issued a membership by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring Member shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.

[17] *See* Rule 1.5(w). The term ''Regular Trading Hours'' shall mean the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[18] *See* Rule 1.5(ff). The term ''Early Trading Session'' shall mean the time between 4:00 a.m. and 8:00 a.m. Eastern Time.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *Supra* note 10.

[23] *Supra* note 11.

marketplace. The proposed revised definition of Unique Identifier does not introduce any new or novel functionality, as the proposed amendment does not change the underlying MTP functionality, but rather will provide Users with the ability to request MTP in situations that do not fit under the Exchange's current definition of Unique Identifier but for which the User has a valid reason to believe that no change in beneficial ownership will occur as a result of a transaction. For instance, a User may operate trading desk 1 that accesses the Exchange as a Sponsored Participant through one Sponsoring Member, as well as trading desk 2 that access the Exchange as a Sponsored Participant through a different Sponsoring Member. While these desks may operate different trading strategies, a User may desire to prevent these desks from trading versus each other in the marketplace because the orders are originating from the same entity.

As described in the above example, Users may desire MTP functionality in order to help them achieve compliance [24] with regulatory rules regarding wash sales and self-trades in a very similar manner to the way that current MTP functionality applies on the existing Sponsored Participant identifier level, but that the Exchange currently cannot enable because the Users are submitting order flow as Sponsored Participant through different Sponsoring Members. In this regard, the proposed revised definition of Unique Identifier will allow Users to enable MTP in situations where it is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership but that the Exchange's current rule does not contemplate. This proposed change does not change the operation or purpose of MTP, but rather provides Users with three situations [25] in which a Unique Identifier may be created to enable MTP. The Exchange notes that the proposed revised definition of Unique Identifier would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition.

In addition, the Exchange believes that the proposed rule text promotes just and equitable principles of trade, is designed to prevent fraudulent and manipulative acts and practices, and in general protects investors and the public interest because it requires a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.9(f) to complete an attestation prior to the creation of the Unique Identifier. The Exchange believes that requiring Users requesting a Unique Identifier pursuant to item (iii) of Rule 11.9(f) to complete an Exchange-provided attestation will help ensure that a Unique Identifier created pursuant to item (iii) of Rule 11.9(f) is not done for frivolous reasons or to block executions between Users where a change of beneficial ownership would otherwise occur.

The Exchange also believes that the proposed rule change is fair and equitable and is not designed to permit unfair discrimination as MTP is available to all Users, its functionality remains optional, and its use is not a prerequisite for trading on the Exchange.

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. MTP is an optional functionality offered by the Exchange and Users are free to decide whether to use MTP in their decision-making process when submitting orders to the Exchange.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any intramarket competition as it seeks to enhance an existing functionality available to all Users. The Exchange is not proposing to introduce any new or novel functionality, but rather is proposing to provide an extension of its existing MTP functionality to Users who seek to prevent transactions in securities in which there is no change of beneficial ownership. Importantly, the proposed rule does not change how MTP operates on the Exchange and MTP will continue to be available to any User who requests a Unique Identifier and satisfies the required criteria. Additionally, the proposed revised definition of Unique Identifier would continue to capture the current concepts covered by the existing affiliate identifier and Multiple Access identifier. MTP will continue to be an optional functionality offered by the Exchange and the revised definition of Unique Identifier will not change how the current Unique Identifiers and MTP functionality operate.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any undue burden on intermarket competition. MTP is an optional functionality offered by the Exchange and Users are not required to use MTP functionality when submitting orders to the Exchange. Further, the Exchange is not required to offer MTP and is choosing to do so as a benefit for Users who wish to enable MTP functionality. Moreover, the proposed change is not being submitted for competitive reasons, but rather to provide Users enhanced order processing functionality that may prevent undesirable executions by affiliated Users such as wash sales or self-trades when no change of beneficial ownership occurs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [26] and Rule 19b–4(f)(6) thereunder.[27] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [28] and Rule 19b–4(f)(6)(iii) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant

[24] *Supra* note 12. The Exchange reminds Users that while they may utilize MTP to help prevent potential transactions such as wash sales or self-trades, Users, not the Exchange, are ultimately responsible for ensuring that their orders comply with applicable rules, laws, and regulations.

[25] The Exchange notes that two of the proposed instances (MPID and firm level) are not changing from the current definition of Unique Identifier. Only the proposed third instance is a change from the current rule text.

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[30] 17 CFR 240.19b–4(f)(6).

to Rule 19b4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay is appropriate because the proposed rule change: (1) does not change how the current MTP functionality on the Exchange works, (2) will allow additional Users to enable MTP pursuant to the revised definition of Unique Identifier on an earlier timeline, and (3) revises the definition of Unique Identifier to prevent transactions in securities where there is no change in beneficial ownership in instances that an existing Unique Identifier would not enable MTP modifier. The Commission believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because this proposed rule change does not present any novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[32]

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–CboeBZX–2026–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2026–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2026–010 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02220 Filed 2–3–26; 8:45 am]

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[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] 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).

[33] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104754; File No. SR–CboeEDGX–2026–005]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.10(d) (''EdgeRisk Self Trade Prevention (''ERSTP'') Modifiers'') To Revise the Definition of Unique Identifier

January 30, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2026, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend Exchange Rule 11.10(d) (''EdgeRisk Self Trade Prevention (''ERSTP'') Modifiers'') to revise the definition of Unique Identifier. The Exchange has designated this proposal as non-controversial pursuant to Rule 19b–4(f)(6)(iii) under the Act.[5] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.10(d) (''EdgeRisk Self Trade Prevention (''ERSTP'') Modifiers) by revising the definition of Unique Identifier. This proposed change is a result of User feedback and implementation difficulties that the Exchange has encountered while trying to apply ERSTP based on current Rule 11.10(d), which requires Users[6] to have

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Exchange Rule 1.5(ee). ''User'' is defined as ''any Member or Sponsored Participant who is

Continued

the same Unique Identifier on each order. As discussed *infra,* the current rule text provides that a Unique Identifier may originate from a specific set of User characteristics. The Exchange now seeks to revise the definition of Unique Identifier and instead provide for three situations in which a Unique Identifier may be generated. The Exchange believes this change would allow for more flexibility in determining which Users are issued a Unique Identifier without compromising the purpose of Rule 11.10(d) and match trade prevention generally. Additionally, the Exchange proposes to include rule text that provides that a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.10(d) must complete an Exchange-provided attestation. The Exchange emphasizes that ERSTP is entirely optional and is not required. As is the case with the existing risk tools, Users, and not the Exchange, have full responsibility for ensuring that their orders comply with applicable securities rules, laws, and regulations. Furthermore, as is the case with the existing risk settings, the Exchange does not believe that the use of the proposed ERSTP functionality can replace User-managed risk management solutions.

Currently, any incoming order designated with an ERSTP modifier will be prevented from executing against a resting opposite side order also designated with an ERSTP modifier and originating from the same market participant identifier (''MPID''),[7] Exchange Member identifier, ERSTP Group identifier, affiliate identifier, or Multiple Access identifier (any such identifier, a ''Unique Identifier'').[8] Both the buy and the sell order must include the same Unique Identifier in order to prevent an execution from occurring and to effect a cancel instruction based on the ERSTP modifier appended to each order. In order to describe how ERSTP functionality may be applied by Users today, the Exchange has provided a brief description of how each Unique Identifier enables ERSTP.

A User who enables ERSTP functionality using the MPID Unique Identifier will prevent contra side executions between the same MPID from occurring. A User who enables ERSTP using the Exchange Member Unique Identifier would prevent contra side executions between any MPID associated with that User and not just a single MPID. The ERSTP Group Unique Identifier permits Users to prevent matched trades amongst traders or desks within a certain firm but allows orders from outside such group or desk to interact with other firm orders. The affiliate identifier is a Unique Identifier that permits ERSTP to be enabled by firms with a control relationship. The affiliate identifier is only available to Users where: (i) greater than 50% ownership is identified in a User's Form BD; and (ii) the Users execute an affidavit stating that a control relationship exists between the two Users. The Multiple Access identifier is available to Users that submit orders to the Exchange both through a direct connection as well as through Sponsored Access. In each instance where an order is appended with a Unique Identifier, the Exchange is utilizing an already existing identifier (*e.g.,* MPID or Exchange Member identifier) or creating an identifier in order to enable ERSTP between two separate Users where there would otherwise not be a common identifier (*e.g.,* affiliate identifier or Multiple Access identifier).

Based on User feedback and implementation difficulties that the Exchange has encountered while seeking to apply ERSTP based its current definition of Unique Identifier, the Exchange now proposes to amend Rule 11.10(d) by revising the definition of Unique Identifier to eliminate the specific Unique Identifier types and instead providing for three situations in which a Unique Identifier may be generated. As proposed, Rule 11.10(d) would provide that a Unique Identifier may be created at: (i) the MPID level; (ii) the firm level (*e.g.,* Exchange Member identifier, ERSTP Group identifier); or (iii) where the User indicates that ERSTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership.

The Exchange believes this change is necessary as Users with legitimate reasons for seeking to enable ERSTP are choosing to submit order flow to the Exchange through various constructs that do not align with the current definitions applicable to Unique Identifiers available under current Rule 11.10(d). The proposed changes do not change how ERSTP will function from an operational perspective. Both the incoming order and the resting opposite side order must continue to be designated with an ERSTP modifier[9] (in addition to a Unique Identifier) in order for ERSTP to apply. The ERSTP modifier on the incoming order will control the interaction between two orders marked with ERSTP modifiers. This proposal is only intended to amend when the Exchange may create a Unique Identifier for a User (or multiple Users) to enable ERSTP when there is otherwise no common identifier available. As is the case under existing Rule 11.10(d), a Unique Identifier will continue to include an MPID, an Exchange Member identifier, or an ERSTP Group identifier—each of which can be categorized under either the (i) MPID level or (ii) the firm level in the proposed rule text. These Unique Identifiers are based on existing identifiers that the Exchange does not specially create for Users and are already being utilized in other formats by the Exchange when a User requests to use ERSTP. However, when a User requests to utilize ERSTP and is doing so based on the current affiliate identifier or current Multiple Access identifier, the Exchange manually creates the applicable Unique Identifier for the User and must ensure that the User satisfies the requirements to obtain an affiliate identifier or Multiple Access identifier prescribed in Rule 11.10(d).

The Exchange has received feedback from firms who would like to employ ERSTP utilizing the current affiliate identifier or the current Multiple Access identifier that it is unclear whether particular use cases would qualify for ERSTP utilizing those particular identifiers based on the definition of those terms currently found in Rule 11.10(d). As such, the Exchange is proposing to remove the terms affiliate identifier and Multiple Access identifier from the definition of Unique Identifier in Rule 11.10 and replace those terms with a concept that more accurately captures a User's basis for wanting to utilize ERSTP as a basis for creating a Unique Identifier. The proposed rule text in Rule 11.10(d) that provides for the creation of a Unique Identifier ''. . . (iii) where the User indicates that ERSTP is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership[.]'' is based in the concept of the federal securities laws' prohibition on wash

authorized to obtain access to the System pursuant to Rule 11.3.'' The ''System'' is ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc). The term ''Member'' means any registered broker or dealer that has been admitted to membership in the Exchange. *See* Exchange Rule 1.5(n).

[7] An MPID is a four-character unique identifier that is approved by the Exchange and assigned to a Member for use on the Exchange to identify the Member firm on the orders sent to the Exchange and resulting executions.

[8] *See* Exchange Rule 11.10(d).

[9] *See* Rule 11.10(d)(1)–(5). Generally, Users may elect to cancel the incoming order, cancel the resting order, cancel both orders, cancel the smallest order, or reduce the size of the larger order by the size of the smaller order.

sales [10] and FINRA Rule 5210 concerning self-trades.[11] [12] Importantly, the proposed revised definition of Unique Identifier, particularly item (iii), would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition. The Exchange notes that any User seeking to utilize proposed item (iii) of Rule 11.10(d) will be required to complete an Exchange-provided attestation before the Unique Identifier is created.[13]

The Exchange proposes to introduce subsection (iii) of Rule 11.10(d) to account for situations where a firm seeks to enable ERSTP in order to prevent transactions in securities in which there is no change in beneficial ownership but where the User does not have an existing Unique Identifier at the MPID or firm level that may be utilized to enable ERSTP. For instance, a firm may employ different trading strategies across different trading desks and choose to send orders for one strategy to the Exchange through one Sponsored Participant [14] while the other strategy is sent through a third party who also accesses the Exchange as a Sponsored Participant.[15] While each trading desk is sending its order flow as a Sponsored Participant, the Sponsored Participants are using different Sponsoring Members [16] to connect to the Exchange and thus the Exchange cannot apply the same Unique Identifier to each respective trading desk even though the trading desks are from the same firm. Additionally, a firm may utilize multiple broker-dealers in multiple jurisdictions to implement its trading strategy at different hours of the day. For example, a firm's US-based broker-dealer may be primarily responsible for entering orders during Regular Trading Hours,[17] while the firm's European-based broker-dealer may be primarily responsible for entering orders during the Early Trading Session.[18] Various other considerations (*e.g.,* business needs, cost, technology limitations, etc.) also factor in to a firm's decision into how it submits order flow to the Exchange.

For example, consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 seeks to enable ERSTP against User 2, which is a related entity of the same firm. User 1 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 2 is a European-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. User 1 and User 2 may not utilize the Sponsored Participant identifier because the Users submit orders through two different Sponsoring Members that have different Sponsored Participant identifiers. Additionally, User 1 and User 2 may not utilize the affiliate identifier because Form BD does not indicate at least a 50% ownership as proof that a control relationship exists. However, both User 1 and User 2 are controlled by the same parent company and believe that no change in beneficial ownership of the security will occur should User 1 and User 2 execute a transaction against one another.

Also consider the following scenario where a firm has multiple Users submitting orders to the Exchange. User 1 is attempting to enable ERSTP against both User 2 and User 3, all of which are related entities of the same firm. User 1 is a US-based broker-dealer that submits orders directly to the Exchange and has its own MPID and Exchange Member identifier. User 2 is a US-based broker-dealer that submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 1. User 3 is a foreign broker-dealer that submits orders to the Exchange through a US-based broker-dealer (Firm 1). Firm 1 submits orders to the Exchange as a Sponsored Participant through Sponsoring Member 2. In this particular example, User 1 would be eligible to enable ERSTP against User 2 using the multiple access Unique Identifier, as the firm has attested to being (i) a Member of the Exchange that submits orders directly to the System, and (ii) submitting orders to the System through a Sponsored Access arrangement. User 1 would also be eligible to enable ERSTP against User 3 using the multiple access Unique Identifier. While ultimately ERSTP can be enabled by User 1 against both User 2 and User 3, User 1 would need to complete multiple attestations in order to receive a multiple access identifier because User 2 and User 3 are submitting orders to the Exchange through different Sponsoring Members.

The Exchange plans to implement the proposed rule change during the first quarter of 2026 and will announce the implementation date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

[10] A ''wash sale'' is generally defined as a trade involving no change in beneficial ownership that is intended to produce the false appearance of trading and is strictly prohibited under both the federal securities laws and FINRA rules. *See, e.g.,* 15 U.S.C. 78i(a)(1); FINRA Rule 6140(b) (''Other Trading Practices'').

[11] Self-trades are ''transactions in a security resulting from the unintentional interaction of orders originating from the same firm that involve no change in beneficial ownership of the security.'' FINRA requires members to have policies and procedures in place that are reasonably designed to review trading activity for, and prevent, a pattern or practice of self-trades resulting from orders originating from a single algorithm or trading desk, or related algorithms or trading desks. *See* FINRA Rule 5210, Supplementary Material .02.

[12] The Exchange does not guarantee that ERSTP is sufficiently comprehensive to be the exclusive means by which a User can satisfy its obligations under the Exchange's rules regarding a User's supervisory obligations. ERSTP is designed to serve as a supplemental tool that may be utilized by Users and the Exchange generally does not believe that its use can replace User-based managed risk solutions and notes that ERSTP was not designed as a sole means of risk control. The User, and not the Exchange, retains full responsibility for complying with such regulatory requirements and must perform its own appropriate due diligence to ensure that ERSTP is reasonably designed to be effective, and otherwise consistent with the User's supervisory obligations. The Commission has stated that broker-dealers may not rely merely on representations of the technology provider, even if an exchange or other regulated entity, to meet this due diligence standard. *See,* Securities Exchange Act Release No. 63241 (November 15, 2010), 75 FR 69792 at 69798. *See also,* Reponses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, Division of Trading and Markets, Question No. 5, April 15, 2014. Available at: *https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/divisionsmarketregfaq-0.*

[13] The Exchange will not require an attestation from Users who are able to utilize the MPID level or firm level Unique Identifiers as those Users have existing documentation in place that allows for the utilization of a Unique Identifier (*e.g.,* MPID, Exchange Member identifier, Sponsored Participant identifier, or trading group identifier) that is not manually created by the Exchange.

[14] *See* Rule 1.5(z). The term ''Sponsored Participant'' shall mean a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3.

[15] The Exchange notes that there may be instances where transactions between two trading desks from the same firm would be considered bona fide transactions (*e.g.,* sufficient information barriers exist), but if the firm is requesting to utilize ERSTP then there is a presumption that the firm believes that transactions between the subject trading desk would result in a self-trade.

[16] *See* Rule 1.5(aa). The term ''Sponsoring Member'' shall mean a broker-dealer that has been issued a membership by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring Member shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.

[17] *See* Rule 1.5(y). The term ''Regular Trading Hours'' shall mean the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[18] *See* Rule 1.5(jj). The term ''Early Trading Session'' shall mean the time between 7:00 a.m. and 8:00 a.m. Eastern Time.

Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] 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)[21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed revised definition of Unique Identifier promotes just and equitable principles of trade by allowing individual firms to better manage order flow and prevent undesirable trading activity such as wash sales'' [22] or self-trades[23] that may occur as a result of the velocity of trading in today's high-speed marketplace. The proposed revised definition of Unique Identifier does not introduce any new or novel functionality, as the proposed amendment does not change the underlying ERSTP functionality, but rather will provide Users with the ability to request ERSTP in situations that do not fit under the Exchange's current definition of Unique Identifier but for which the User has a valid reason to believe that no change in beneficial ownership will occur as a result of a transaction. For instance, a User may operate trading desk 1 that accesses the Exchange as a Sponsored Participant through one Sponsoring Member, as well as trading desk 2 that access the Exchange as a Sponsored Participant through a different Sponsoring Member. While these desks may operate different trading strategies, a User may desire to prevent these desks from trading versus each other in the marketplace because the orders are originating from the same entity.

As described in the above example, Users may desire ERSTP functionality in order to help them achieve compliance[24] with regulatory rules regarding wash sales and self-trades in a very similar manner to the way that current ERSTP functionality applies on the existing Sponsored Participant identifier level, but that the Exchange currently cannot enable because the Users are submitting order flow as Sponsored Participant through different Sponsoring Members. In this regard, the proposed revised definition of Unique Identifier will allow Users to enable ERSTP in situations where it is necessary in order to prevent transactions in securities in which there is no change in beneficial ownership but that the Exchange's current rule does not contemplate. This proposed change does not change the operation or purpose of ERSTP, but rather provides Users with three situations[25] in which a Unique Identifier may be created to enable ERSTP. The Exchange notes that the proposed revised definition of Unique Identifier would continue to capture the concepts of the affiliate identifier and Multiple Access identifier and as such, existing Users of those Unique Identifiers would not be harmed by the change in definition.

In addition, the Exchange believes that the proposed rule text promotes just and equitable principles of trade, is designed to prevent fraudulent and manipulative acts and practices, and in general protects investors and the public interest because it requires a User requesting a Unique Identifier pursuant to item (iii) of Rule 11.10(d) to complete an attestation prior to the creation of the Unique Identifier. The Exchange believes that requiring Users requesting a Unique Identifier pursuant to item (iii) of Rule 11.10(d) to complete an Exchange-provided attestation will help ensure that a Unique Identifier created pursuant to item (iii) of Rule 11.10(d) is not done for frivolous reasons or to block executions between Users where a change of beneficial ownership would otherwise occur.

The Exchange also believes that the proposed rule change is fair and equitable and is not designed to permit unfair discrimination as ERSTP is available to all Users, its functionality remains optional, and its use is not a prerequisite for trading on the Exchange.

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. ERSTP is an optional functionality offered by the Exchange and Users are free to decide whether to use ERSTP in their decision-making process when submitting orders to the Exchange.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any intramarket competition as it seeks to enhance an existing functionality available to all Users. The Exchange is not proposing to introduce any new or novel functionality, but rather is proposing to provide an extension of its existing ERSTP functionality to Users who seek to prevent transactions in securities in which there is no change of beneficial ownership. Importantly, the proposed rule does not change how ERSTP operates on the Exchange and ERSTP will continue to be available to any User who requests a Unique Identifier and satisfies the required criteria. Additionally, the proposed revised definition of Unique Identifier would continue to capture the current concepts covered by the existing affiliate identifier and Multiple Access identifier. ERSTP will continue to be an optional functionality offered by the Exchange and the revised definition of Unique Identifier will not change how the current Unique Identifiers and ERSTP functionality operate.

The Exchange believes that the proposed revised definition of Unique Identifier does not impose any undue burden on intermarket competition. ERSTP is an optional functionality offered by the Exchange and Users are not required to use ERSTP functionality when submitting orders to the Exchange. Further, the Exchange is not required to offer ERSTP and is choosing to do so as a benefit for Users who wish to enable ERSTP functionality. Moreover, the proposed change is not being submitted for competitive reasons, but rather to provide Users enhanced order processing functionality that may prevent undesirable executions by affiliated Users such as wash sales or self-trades when no change of beneficial ownership occurs.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *Supra* note 10.

[23] *Supra* note 11.

[24] *Supra* note 12. The Exchange reminds Users that while they may utilize ERSTP to help prevent potential transactions such as wash sales or self-trades, Users, not the Exchange, are ultimately responsible for ensuring that their orders comply with applicable rules, laws, and regulations.

[25] The Exchange notes that two of the proposed instances (MPID and firm level) are not changing from the current definition of Unique Identifier. Only the proposed third instance is a change from the current rule text.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [26] and Rule 19b–4(f)(6) thereunder.[27] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [28] and Rule 19b–4(f)(6)(iii) thereunder.[29]

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay is appropriate because the proposed rule change: (1) does not change how the current ERSTP functionality on the Exchange works, (2) will allow additional Users to enable ERSTP pursuant to the revised definition of Unique Identifier on an earlier timeline, and (3) revises the definition of Unique Identifier to prevent transactions in securities where there is no change in beneficial ownership in instances that an existing Unique Identifier would not enable ERSTP modifier. The Commission believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because this proposed rule change does not present any novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[32]

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–CboeEDGX–2026–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR-CboeEDGX–2026–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeEDGX–2026–005 and should be submitted on or before February 25, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02227 Filed 2–3–26; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 17 CFR 240.19b–4(f)(6).

[28] 15 U.S.C. 78s(b)(3)(A)(iii).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] 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).

[33] 17 CFR 200.30–3(a)(12) and (59).

DEPARTMENT OF STATE

[Public Notice: 12940]

TITLE: Notice of Public Meeting To Prepare for International Maritime Organization SSE 12 Session

The Department of State will conduct a public meeting at 10:00 a.m. on Monday, March 2, 2026, by teleconference. The primary purpose of the meeting is to prepare for the twelfth session of the International Maritime Organization's (IMO) Sub-Committee on Ship Systems and Equipment (SSE 12) to be held at IMO Headquarters in London, United Kingdom from Monday, March 9, 2026, to Friday, March 13, 2026.

The agenda items to be considered include:

—Adoption of the agenda
—Decisions of other IMO bodies
—New requirements for ventilation of survival craft (7.36)
—Revision of the Revised guidelines for the maintenance and inspections of fixed carbon dioxide fire-extinguishing systems (MSC.1/Circ.1318/Rev.1) to clarify the testing and inspection provisions for CO2 cylinders (7.25)
—Revision of SOLAS chapter III and the LSA Code (2.16)
—Amendments to SOLAS chapter III and chapter IV of the LSA Code to require the carriage of self-righting or canopied reversible liferafts for new ships (7.30)
—Development of amendments to paragraph 2.1.2.5 of chapter 5 of the FSS Code on construction requirement for gaskets (1.13)
—Revision of the 2010 FTP Code to allow for new fire protection systems and materials (7.34)
—Review and update SOLAS regulation II–2/9 on containment of fire to incorporate existing guidance and clarify requirements (7.48)
—Unified interpretation of provisions of IMO safety, security, environment,

facilitation, liability and compensation-related conventions (7.1)
—Validated model training courses (6.2)
—Development of amendments to SOLAS chapter II–2 and the FSS Code concerning detection and control of fires in cargo holds and on the cargo deck of containerships (7.15)
—Development of provisions to consider prohibiting the use of fire-fighting foams containing fluorinated substances, in addition to PFOS, for fire-fighting on board ships (7.41)
—Comprehensive review of the Requirements for maintenance, thorough examination, operational testing, overhaul and repair of lifeboats and rescue boats, launching appliances and release gear (resolution MSC.402(96)) to address challenges with their implementation (7.29)
—Amendments to the LSA Code for thermal performance of immersion suits (7.19)
—Evaluation of adequacy of fire protection, detection and extinction arrangements in vehicle, special category and ro-ro spaces in order to reduce the fire risk of ships carrying new energy vehicles (7.37)
—Development of a safety regulatory framework to support the reduction of GHG emissions from ships using new technologies and alternative fuels (3.8)
—Biennial status report and provisional agenda for SSE 13
—Election of Chair and Vice-Chair for 2027
—Any other business
—Report to the Maritime Safety Committee.

Please note: The IMO may, on short notice, adjust the SSE 12 agenda to accommodate any constraints associated with the meeting. Although no changes to the agenda are anticipated, if any are necessary, they will be provided to those who RSVP.

Those who plan to participate may contact the meeting coordinator, LT Huston Helwig, by email at *Huston.Helwig@uscg.mil,* by phone at (206) 827–1553, or in writing at ATTN: LT Huston Helwig, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, by February 23, 2026. Members of the public needing reasonable accommodation should advise LT Huston Helwig no later than February 23, 2026. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552.)

Emily C. Miletello,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, U.S. Department of State.

[FR Doc. 2026–02209 Filed 2–3–26; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–0661]

FAA Aircraft Noise Complaint and Inquiry System (Noise Portal); Correction

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Notice; correction.

SUMMARY: On January 20, 2026, FAA published a notice regarding the FAA Aircraft Noise Complaint and Inquiry System (Noise Portal) that omitted the docket number. This document corrects that omission.

FOR FURTHER INFORMATION CONTACT: Nitin Rao, Manager, National Engagement Strategy and Policy Division (ARA–200), Federal Aviation Administration, by email at: *9-APL-ANCIR-Comments@faa.gov;* or by phone: 202–267–0965.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 20, 2026, in FR Doc. 2026–00943, on page 2416, in the second column, in the document heading, correct the docket number to read: [Docket No. FAA–2024–0661].

Nitin Rao,

Manager, National Engagement Strategy and Policy Division, Federal Aviation Administration.

[FR Doc. 2026–02231 Filed 2–3–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2026–0430]

Office of the Assistant Secretary for Research and Technology; Request for Information—Research To Support Establishing a National Strategy for Transportation Digital Infrastructure

AGENCY: Department of Transportation (DOT).

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Transportation (U.S. DOT), Office of the Assistant Secretary for Research and Technology (OST–R), is seeking information from the public, industry, technology developers, State, local, and tribal transportation agencies, researchers, and other stakeholders. The focus of this request is to seek public and stakeholder input on the research and development activities needed to modernize the nation's transportation system through the application of digital infrastructure at scale. Responses will inform a coordinated national strategy for the development and deployment of Transportation Digital Infrastructure (TDI). This strategy will serve as the framework for the next generation of the transportation system across all modes (highway, rail, air, maritime, transit, pipeline) supporting multimodal operations, safety, asset management, and the accelerated deployment of new and emerging technologies.

DATES: Written submissions must be received by March 6, 2026.

Submission Instructions: Responses should be submitted electronically as a Microsoft Word document, preferably no greater than 10 MB in file size. Recommended format for responses includes Times New Roman 12-point font and 1 inch page margins. Responses should be emailed to *TDI-Strategy-RFI@dot.gov* (with the Subject Line of ''TDI Strategy RFI Response <Institution Name>''. No Confidential Business Information or Sensitive Security Information should be submitted in response to this RFI. Respondents are not required to answer every question. Submissions may be as brief or detailed as appropriate and should focus on areas where the respondent has relevant experience.

FOR FURTHER INFORMATION CONTACT: For questions about this RFI, please email *TDI-Strategy-RFI@dot.gov.* You may also contact Alasdair Cain, Director of Research, Development and Technology Coordination, Office of the Assistant Secretary for Research and Technology (202–366–0934) or by email at *alasdair.cain@dot.gov.*

SUPPLEMENTARY INFORMATION: This RFI seeks information that will assist OST–R in carrying out its transportation research and development responsibilities under 49 U.S.C. Chapter 65, ''Research Planning''. This RFI is neither a request for proposals nor a notice of funding opportunity.

Respondents are requested to supply the following information at a minimum in their written responses:

A. Name of the responding entity (''respondent'').

B. Respondent's Contact information, including that individual's title, name,

address, telephone number and email address.

C. The respondent's input to U.S. DOT transportation digital infrastructure research and planning needs relating to any or all of the questions below.

Specific Information Required

This RFI seeks feedback from the public, industry, technology developers, State, local and tribal transportation agencies, researchers, and other stakeholders on the research, development and deployment activities necessary to develop a comprehensive, national Transportation Digital Infrastructure (TDI) strategy. This includes identifying opportunities for improved data exchange and interoperability, cyber-resilience, asset management, and technology integration across varied U.S. geographies and operational environments. The insights gained through this RFI will inform a research agenda that supports the development, deployment, and scaling of digital infrastructure nationwide. The following presents key questions in four critical topic areas.

A. Research, Development and Deployment

1. How should Transportation Digital Infrastructure be defined?
2. What TDI research needs should be prioritized?
3. What travel corridors or regions should be prioritized for TDI development and deployment?
4. Are there existing testbeds, pilots or demonstrations that could be leveraged?
5. What TDI use cases or applications should be prioritized?
6. How should U.S. DOT leverage or expand existing programs to advance TDI development and deployment?

B. System Architecture, Interoperability and Standards

1. What are the key elements of a TDI system architecture that can accommodate the operation of all transportation modes including surface, maritime, and aviation?
2. How can TDI be integrated into infrastructure planning, construction and asset management processes?
3. What methods should be used for federating data sharing across States and regions?
4. What existing architecture frameworks or standards could be used to underpin TDI development and deployment (*e.g.,* U.S. DOT's Architecture Reference for Cooperative and Intelligent Transportation (ARC–IT))?
5. What are the necessary latency and throughput requirements for safety-critical applications (*e.g.,* Vehicle-to-Everything (V2X) communications, Automated Driving Systems (ADS), and Cooperative Driving Automation (CDA))?
6. What are the highest-priority research gaps and challenges to advancing interoperability across modes and sectors?

C. Artificial Intelligence and Automation

1. How should AI applications be leveraged to support TDI development and deployment?
2. How should TDI be best used to accelerate the development and deployment of autonomous vehicles, drones and other transformative technologies?
3. What are the highest-value, near-time AI and automation applications enabled by comprehensive sensing and data sharing?
4. How can AI applications be safely deployed to accommodate data exchange and data use across jurisdictional boundaries?

D. Data Governance, Privacy, and Cybersecurity

1. What data governance principles, access controls, and cybersecurity measures are needed to ensure trust, accountability, and privacy?
2. What models or frameworks should be used to ensure secure data exchange (*e.g.,* data trusts, federated data sharing, and public Application Programming Interfaces (APIs))?
3. What are the most significant threat vectors introduced by extensive transportation system sensing and data integration, beyond traditional Information Technology (IT) and Operational Technology (OT) threats?
4. How should U.S. DOT apply the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) to TDI development and deployment?
5. How should TDI be aligned with federal data strategies and privacy frameworks?
6. How can legacy and proprietary data sources be effectively incorporated into a new national data exchange environment?

Confidential Business Information

Do not submit information disclosure of which is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ''CBI'') in response to this RFI. Responses submitted to OST–R cannot be claimed as CBI. Responses received by OST–R will waive any CBI claims for the information submitted.

Issued in Washington, DC, on January 30, 2026.

Michael A. Halem,

Acting Assistant Secretary for Research and Technology.

[FR Doc. 2026–02236 Filed 2–3–26; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on January 30, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490 or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

Notice of OFAC Action

On January 30, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Entities

1. ZEDCEX EXCHANGE LTD, 71–75 Shelton Street, London WC2H 9JQ, United Kingdom; website *www.zedcex.com*; Additional Sanctions Information—Subject to Secondary Sanctions; Secondary sanctions risk: section 1(b) of Executive Order 13224,

as amended by Executive Order 13886; Organization Established Date 22 Aug 2022; Organization Type: Financial and Insurance Activities; Digital Currency Address—TRX TCA9vmjsYw9Mt PKEwRBtGhKFRfr4CLxJAv; alt. Digital Currency Address—TRX TGsNFrgWfbGN2g X25Wcf8oTejtxtQkvmEx; alt. Digital Currency Address—TRX TASWbk6X1wiTku 5TMmMQYqYFvshVEtfJy8; alt. Digital Currency Address—TRX TTS9o5KkpGgH8c K9LofLmMAPYb5zfQvSNa; alt. Digital Currency Address—TRX TCzq6m2zxnQkrZrf8 cqYcK6bbXQYAfWYKC; alt. Digital Currency Address—TRX TLvuvpfBKdxddxSs JefeiGCe9eVY8HUroE; alt. Digital Currency Address—TRX TNuA5CQ6LB4j THoNrjEeQZJmcmhQuHMbQ7; Company Number 14311274 (United Kingdom) issued 22 Aug 2022 [SDGT] [IFSR] [IRAN–EO13902] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended and section 1(a)(i) of Executive Order 13902 of January 10, 2020, ''Imposing Sanctions With Respect to Additional Sectors of Iran,'' 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for operating in the financial sector of the Iranian economy.

2. ZEDXION EXCHANGE LTD (a.k.a. ZEDXION LIMITED), 71–75 Shelton Street, London WC2H 9JQ, United Kingdom; website *www.zedxion.io*; Additional Sanctions Information—Subject to Secondary Sanctions; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 17 May 2021; Organization Type: Financial and Insurance Activities; Company Number 13404089 (United Kingdom) issued 17 May 2021 [SDGT] [IFSR] [IRAN–EO13902] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended and section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

Individuals

BILLING CODE 4810–AL–P

1. ZANJANI, Babak Morteza (Arabic: بابک زنجانی), United Arab Emirates; DOB 12 Mar 1974; POB Tehran, Iran; nationality Iran; alt. nationality United Arab Emirates; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRAN-EO13902].

   Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

2. HAJIAN, Mehdi (Arabic: مهدی حاجیان) (a.k.a. HAJJIAN, Mehdi), Kermanshah, Iran; DOB 16 Aug 1976; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 3359178221 (Iran); LEF Commander for Kermanshah Province (individual) [IRAN-HR] (Linked To: LAW ENFORCEMENT FORCES OF THE ISLAMIC REPUBLIC OF IRAN).

   Designated pursuant to section 1(a)(ii)(C) of Executive Order 13553 of September 28, 2010, "Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions," 75 FR 60567, 3 CFR 2010 Comp., p. 253 (E.O. 13553), for having acted or purported to act for or on behalf of, directly or indirectly, the LAW ENFORCEMENT FORCES OF THE ISLAMIC REPUBLIC OF IRAN, a person whose property and interests in property are blocked pursuant to E.O. 13553.

3. DAMGHANI, Hamid (Arabic: حمید دامغانی), Iran; DOB 23 Sep 1973; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4590769603 (Iran); IRGC Commander for Gilan Province (individual) [IRGC] [IFSR] [IRAN-HR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

   Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13553.

4. KAMALI, Hossein Zare (Arabic: حسین زارع کمالی), Iran; DOB 27 Jun 1961; POB Mehriz, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport R57381834 (Iran) expires 01 Jul 2027; IRGC Commander for Hamadan Province (individual) [IRGC] [IFSR] [IRAN-HR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

   Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13553.

5. KHADEMI, Majid (Arabic: مجید خادمی), Tehran, Iran; DOB 06 Sep 1962; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 2571042165 (Iran); Islamic Revolutionary Guard Corps Intelligence Organization Commander (individual) [IRGC] [IFSR] [IRAN-HR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

   Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13553.

6. VALIZADEH, Ghorban Mohammad (Arabic: قربان محمد ولی زاده) (a.k.a. VALIZADEH SHARAK, Ghorban Mohammad), Tehran, Iran; DOB 23 Sep 1974; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0872896595 (Iran); Islamic Revolutionary Guard Corps Commander for Tehran Province (individual) [IRGC] [IFSR] [IRAN-HR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

   Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13553.

7. MOMENI KALAGARI, Eskandar (a.k.a. MOMENI, Eskandar (Arabic: اسکندر مؤمنی)), Iran; DOB 15 Jan 1963; POB Qaem Shahr, Mazandaran, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport D10016001 (Iran) expires 27 Nov 2029 (individual) [IRAN-HR].

   Designated pursuant to section 1(a)(ii)(A) of E.O. 13553 for being an official of the Government of Iran or a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026–02217 Filed 2–3–26; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Electronic Tax Administration Advisory Committee; Request for Nominations—Correction of Application Deadline Date

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Corrected application deadline date.

SUMMARY: This document contains a correction to the deadline date for submitting Electronic Tax Administration Advisory Committee (ETAAC) membership applications. The correct deadline date is February 28, 2026. The prior notice, that was published in the **Federal Register** on December 31, 2025, stated the deadline date was January 31, 2026. More information, including the ETAAC application, is available at *www.irs.gov/etaac.*

FOR FURTHER INFORMATION CONTACT: Anna Millikan at (202) 317–6564 or send an email to *publicliaison@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The ETAAC is a federal advisory committee operating pursuant to the Federal Advisory Committee Act. The Internal Revenue Service is requesting applications for ETAAC membership from individuals with experience in such areas as state tax administration, cybersecurity and information security, tax software development, tax preparation, payroll and tax financial product processing, systems management and improvement,

implementation of customer service initiatives, public administration, and consumer advocacy.

Correction of Publication

Accordingly, FR Doc. 2025–24037, Electronic Tax Administration Advisory Committee; Request for Nominations, appearing on pages 61502–61503 in the **Federal Register** on Wednesday, December 31, 2025, is corrected to reflect the correct application deadline date to be ''February 28, 2026'' and not ''January 31, 2026''.

Dated: January 30, 2026.

John A. Lipold,

Designated Federal Officer, Office of National Public Liaison, Internal Revenue Service.

[FR Doc. 2026–02223 Filed 2–3–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Privacy Act; Systems of Records

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of the Treasury (Treasury), Departmental Offices proposes to establish a new Treasury system of records entitled ''Department of the Treasury, Departmental Offices DO .0197—Financial Assistance Programs'' for information collected in connection with the administration of financial assistance programs by Treasury's Departmental Offices. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of the system of records maintained by Treasury.

DATES: Written comments must be received by March 6, 2026. This new system will be effective upon publication. The routine uses will be applicable on March 6, 2026 unless Treasury receives comments and determines that changes to the system of records notice are necessary.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment and ensures timely receipt.
- *Mail:* U.S. Department of the Treasury, Attention: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Treasury encourages comments to be submitted via *https://www.regulations.gov.* All comments submitted, including attachments and other supporting material, will be made public, including any personally identifiable or confidential business information that is included in a comment. Therefore, commenters should submit only information that they wish to make publicly available. Commenters who wish to remain anonymous should not include identifying information in their comments.

FOR FURTHER INFORMATION CONTACT: For general questions and questions regarding privacy issues, please contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622–5710.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, as amended (the Privacy Act), the Department of the Treasury (Treasury), Departmental Offices proposes to establish a new system of records entitled ''Department of the Treasury, Departmental Offices .0197—Financial Assistance Programs'' for information collected in connection with the administration of financial assistance programs by Treasury Departmental Offices. These programs include the Capital Projects Fund program, Emergency Rental Assistance programs, Homeowner Assistance Fund program, Local Assistance and Tribal Consistency Fund program, RESTORE Act programs (the Direct Component and Centers of Excellence Research Grants Program), Social Impact Partnership to Pay for Results Act program, State and Local Fiscal Recovery Funds program, and State Small Business Credit Initiative programs, as well as other such programs Treasury may administer.

This established system will be included in Treasury's inventory of record systems. Below is the description of the new system, ''Department of the Treasury, Departmental Offices .0197—Financial Assistance Programs.''

In accordance with 5 U.S.C. 552a(r), Treasury has provided a report of this new system to OMB and to the U.S. Congress.

Dated: January 30, 2026.

George Apetse,

Acting Treasury Privacy Officer.

SYSTEM NAME AND NUMBER:

Department of the Treasury, DO .0197—Financial Assistance Programs.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the Departmental Offices: 1500 Pennsylvania Avenue NW, Washington, DC 20220.

SYSTEM MANAGER(S):

a. Office of Capital Access, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

b. Office of Economic Policy, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

b. Chief Information Officer, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 44 U.S.C. 3554; 12 U.S.C. 5701 *et seq.* (State Small Business Credit Initiative Programs); 15 U.S.C. 9058a, 9058c (Emergency Rental Assistance programs); 15 U.S.C. 9058d (Homeowner Assistance Fund program); 33 U.S.C. 1321 note (RESTORE Act programs); 42 U.S.C. 1397n *et seq.* (SIPPRA program); 42 U.S.C. 802–805 (State and Local Fiscal Recovery Funds programs, Capital Projects Fund program, and Local Assistance and Tribal Consistency Fund) program; E.O. 9397, as amended by E.O. 13478; and E.O. 14243.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect information from recipients and other parties regarding implementation of the financial assistance programs administered by Treasury Departmental Offices. Treasury may use this information to evaluate compliance with program requirements, including compliance with applicable federal laws, regulations, and executive orders; to support other audit and program oversight activities; to identify potential waste, fraud, and abuse; and for research and statistical purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system covers individual beneficiaries of financial assistance programs administered by Treasury's Departmental Offices, including the

Capital Projects Fund program, Emergency Rental Assistance programs, Homeowner Assistance Fund program, Local Assistance and Tribal Consistency Fund program, RESTORE Act programs (including the Direct Component and the Centers of Excellence Research Grants Program), the Social Impact Partnerships to Pay for Results Act program, the State and Local Fiscal Recovery Funds program, and the State Small Business Credit Initiative programs, as well as other similar programs that Treasury may administer. Beneficiaries are the ultimate persons or entities that receive the intended benefit of the federal assistance. The system covers both individual beneficiaries as well as individuals associated with small businesses, non-profits, or other entities that receive assistance such as individual owners or employees of such businesses, or other entities. The system also covers other individuals associated with these programs, including employees, agents, or representatives of recipients, subrecipients, and their contractors or vendors, who carry out or are otherwise involved in program activities. In addition, the system includes any other individuals whose information is received by Treasury Departmental Offices, either directly or indirectly, in the course of program administration, compliance, audit, oversight, or research and statistical activities. Recipients receive financial assistance directly from Treasury and may include: states, territories, tribal governments, territories, local governments, public authorities or instrumentalities, non-profits, for-profit businesses, and other entities. Subrecipients receive funding from a Treasury recipient (or pass-through entity) to carry out part of a federal program and have programmatic responsibility and may include non-profits, for-profit businesses, tribal governments, local governments, public authorities or instrumentalities, and other entities. Contractors or vendors are individuals or entities that provide goods or services to a recipient or subrecipient in support of a federal program, but do not carry out the federal program itself.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of information collected or otherwise maintained by program recipients, subrecipients, and their contractors, including but not limited to information collected by recipients, subrecipients, and their contractors for the purpose of determining applicant eligibility for assistance, administering such assistance, and conducting program oversight, audit, and compliance activities.

Records include application materials and supporting documentation submitted by individuals and entities applying for assistance from recipients and subrecipients as well as other information related to an individual's or entity's application for and receipt of such assistance. Records also include documentation regarding contracts entered into by recipients and subrecipients with contractors for activities undertaken using funds received from Treasury Departmental Offices financial assistance programs.

Information in such records may include, but is not limited to, the following information: full legal name; unique identifiers or application identification numbers assigned by the recipient, subrecipient or contractor; residential address and contact information; reported income and household financial information; self-attestations, certifications, and signatures; supporting documentation provided by applicants; amounts of assistance awarded or received; periods of assistance, including applicable dates; information about employees or owners of recipients, subrecipients, contractors, or business beneficiaries; and identifying, demographic, and financial information associated with the receipt of or entry into awards, grants, loans, contracts, investments, and other transactions, including Social Security numbers or taxpayer identification numbers.

Records in the system may include employment-related and financial data necessary to support eligibility determinations, payment processing, audit activities, and program integrity functions. Treasury would collect such information as necessary for program administration, reporting, audit, compliance, or research and statistical purposes.

RECORD SOURCE CATEGORIES:

The information contained in the system may be provided by recipients, subrecipients, and contractors that managed these programs on their behalf. Recipients include, but are not limited to, states, territories, local governments, Tribes, the freely associated states, and various non-profit and for-profit entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act of 1974, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the United States Department of Justice (''DOJ''), for the purpose of representing or providing legal advice to the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(a) The Department or any component thereof;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where DOJ or the Department has agreed to represent the employee; or

(d) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation provided that the disclosure is compatible with the purpose for which records were collected.

(2) To Federal agencies, non-Federal entities (including States and local governments), their employees, and agents (including contractors, their agents or employees and employees or contractors of the agents); or contractors (including their employees or agents) with which the Department has a contract, service agreement, grant, cooperative agreement, or computer matching agreement for the purpose of: (1) identification, prevention, and recovery of improper payments; (2) identification and prevention of fraud, waste, and abuse in Federal programs administered by the Department, another Federal agency, or a non-Federal entity; or (3) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to assistance or payments under Federal programs or recouping payments or recovering delinquent debts under such Federal programs;

(3) To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or their parties, and entities and their agents with which the Department has a contract, service agreement, grant, cooperative agreement, or other agreement for the purposes of statistical analysis and research in support of program operations, management,

performance monitoring, evaluation, risk management, and policy development, to otherwise support the Department's mission, or for other research and statistical purposes not otherwise prohibited by law or regulation.

(4) To appropriate Federal, State, local, or foreign agencies, or other public authority responsible for investigating or prosecuting the violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation;

(5) To a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;

(6) In a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) the agency, (b) or any component thereof, (c) any employee of the agency in his or her official capacity, (d) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or (e) the United States, when the agency determines that litigation is likely to affect the agency, is a party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise privileged;

(7) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(8) To the news media in accordance with guidelines contained in 28 CFR 50.2 which pertain to an agency's functions relating to civil and criminal proceedings;

(9) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(10) To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(11) To a contractor for the purpose of compiling, organizing, analyzing, programming, processing, or otherwise refining records subject to the same limitations applicable to U.S. Department of the Treasury officers and employees under the Privacy Act;

(12) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a court order when Treasury determines that the disclosure is relevant and necessary;

(13) To other Federal agencies to effect salary or administrative offset for the purpose of collecting debts, except that addresses obtained from the Internal Revenue Service shall not be disclosed to other agencies;

(14) To disclose information to a consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports;

(15) To a debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services;

(16) To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of the Federal labor-management program for the purpose of processing any corrective actions, or grievances, or conducting administrative hearings or appeals, or if needed in the performance of other authorized duties;

(17) To a public or professional auditing organization for the purpose of conducting financial audit and/or compliance audits;

(18) To a student participating in a Treasury student volunteer program, where such disclosure is necessary to support program functions of Treasury, and

(19) To appropriate agencies, entities, and person when (1) the Department of the Treasury suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of the Treasury's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(20) To another Federal agency or Federal entity, when the Department of the Treasury determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(21) The National Archives and Records Administration for use in its records management inspections and its role as an Archivist under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically in secure facilities. Paper records (if they must be created/maintained) are stored in a locked drawer, behind a locked door, or at a secure offsite location.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system may be retrieved, for authorized purposes, by name or another unique identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system will be maintained and disposed in accordance with National Archives and Records Administration retention schedules.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable laws and policies, including all applicable Treasury information systems security and access policies. Strict controls are imposed to minimize the risk of compromising the information that is being stored. Access to the records in this system is limited to those individuals who have appropriate permissions and a need to know for the performance of their official duties. User activity is recorded by the system for audit purposes. Electronic records are encrypted at rest

and in transit. Records are maintained in buildings subject to 24-hour security.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Requests for information and specific guidance on where to send requests for records may be addressed to: Privacy Act Request, DO, Director, FOIA and Transparency, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2026–02234 Filed 2–3–26; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0899]

Agency Information Collection Activity: Readjustment Counseling Service Scholarship Program (RCSSP)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before *April 6, 2026*.

ADDRESSES: Comments must be submitted through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Rebecca Mimnall, 202–695–9434, *vhacopra@va.gov*.

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov*.

SUPPLEMENTARY INFORMATION:

Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Readjustment Counseling Service Scholarship Program (RCSSP).

OMB Control Number: 2900–0899. https://www.reginfo.gov/public/do/PRASearch (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: Authorization for this information collection is found in section 502 of Public Law 115–171, the Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019, which amended Chapter 76 of title 38 United States Code (U.S.C.) by establishing sections 7698 through 7699B and creating a scholarship program known as the Readjustment Counseling Service Scholarship Program (RCSSP). This legislation authorized the VA Readjustment Counseling Service (RCS) to provide scholarship awards to individual Veterans enrolled in accredited academic programs leading to an appointment in one of the selected health professional occupations. Specifically, the RCSSP provides educational assistance to individuals who pursue a graduate degree in psychology, social work, marriage and family therapy, or mental health counseling that would meet the education requirements for appointment as a health care professional in one of those fields in VA Vet Centers.

The information collected is used to determine the eligibility or suitability of an applicant desiring to receive a scholarship award under the provisions of the RCSSP. Following selection, additional information is collected from awardees pursuant to program requirements. The applicant forms in this collection are 10–264, 10–264A, 10–264E, and 10–264G. The awardee forms are 10–264D, 10–264F, 10–264H, 10–264I, 10–264J, 10–264K, and 10–264M.

Affected Public: Individuals or Households.

Estimated Annual Burden: Total hours = 181 hours.

Applicants:
10–264 = 54 hours.
10–264A = 9 hours.
10–264E = 45 hours.
10–264G = 54 hours.

Awardees:
10–264D = 4 hours.
10–264F = 3 hours.
10–264H = 2 hours.
10–264I = 4 hours.
10–264J = 2 hours.
10–264K = 2 hours.
10–264M = 2 hours.

Estimated Average Burden Per Respondent:

Applicants:
10–264 = 60 minutes.
10–264A = 10 minutes.
10–264E = 50 minutes.
10–264G = 60 minutes.

Awardees:
10–264D = 20 minutes.
10–264F = 15 minutes.
10–264H = 10 minutes.
10–264I = 20 minutes.
10–264J = 10 minutes.
10–264K = 10 minutes.
10–264M = 10 minutes.

Frequency of Response: Once annually.

Estimated Number of Responses: Total Responses = 66.

Applicants:
10–264 = 54.
10–264A = 54.
10–264E = 54.
10–264G = 54.

Awardees:
10–264D = 12.
10–264F = 12.
10–264H = 12.
10–264I = 12.
10–264J = 12.
10–264K = 12.
10–264M = 12.

Authority: 44 U.S.C. 3501 et seq.

Shunda Willis,

Acting, VA PRA Clearance Officer, (Alt.), Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–02208 Filed 2–3–26; 8:45 am]

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Part II

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1 and 48

Section 45Z Clean Fuel Production Credit; Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 48

[REG–121244–23]

RIN 1545–BR30

Section 45Z Clean Fuel Production Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This document contains proposed regulations regarding the clean fuel production credit enacted by the Inflation Reduction Act of 2022 and amended by the One, Big, Beautiful Bill Act (OBBBA). These proposed regulations would provide rules for determining clean fuel production credits, including credit eligibility rules, emissions rates, and certification and registration requirements. In addition, the proposed regulations would amend three sets of final regulations: the elective payment election regulations and the credit transfer election regulations, to clarify language relating to ownership of clean fuel production facilities, and the Federal excise tax registration regulations, to make them clearer and more consistent with the clean fuel production credit registration requirements in these proposed regulations. The proposed regulations would affect domestic producers of clean transportation fuel, taxpayers that may claim a credit for a related producer's fuel, and excise tax registrants.

DATES: Written or electronic comments must be received by April 6, 2026. The public hearing is being held on May 28, 2026, at 10 a.m. Eastern Time (ET). Requests to speak and outlines of topics to be discussed at the public hearing must be received by April 6, 2026. If no outlines are received by April 6, 2026, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. ET on May 26, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–121244–23) 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 comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–121244–23), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. A plain language summary of the proposed regulations will be made available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Jennifer Golden or Danielle Mayfield of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax) at (202) 317–6855 (not a toll-free number); concerning submissions of comments or the 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 document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) regarding sections 45Z, 1361, 4101, 6417, and 6418 of the Internal Revenue Code (Code) as they relate to the clean fuel production credit determined under section 45Z (proposed regulations). This document also contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) regarding section 4101 as they relate to excise tax registration. The proposed regulations would be issued under the authority granted by sections 45Z, 1361(b)(3)(A), 4101(a)(1) and (c), 4222(c), 6001, 6417(h), 6418(h), and 7805(a) of the Code.

Section 45Z contains several delegations of authority to the Secretary of the Treasury or the Secretary's delegate (Secretary). Section 45Z(e) directs the Secretary to issue guidance no later than January 1, 2025, regarding implementation of section 45Z, including calculation of emissions factors of transportation fuel, the emissions rate table described in section 45Z(b)(1)(B)(i), and the determination of clean fuel production credits under section 45Z. Section 45Z(f)(2) further authorizes the Secretary to issue regulations regarding the fuel production attributable to the taxpayer in the case of a facility with multiple owners, and section 45Z(f)(1)(A)(i)(II) authorizes the Secretary to issue guidance on certification and other information with respect to certain transportation fuels.

Section 45Z(f)(3) authorizes the Secretary to prescribe additional related person rules for other entities similar to the rule described for corporations that are members of an affiliated group of corporations filing a consolidated return. This includes the authority to prescribe rules for related persons with respect to which the taxpayer has reason to believe will sell fuel to an unrelated person in a manner described in section 45Z(a)(4).

Section 45Z(d)(5)(C) directs the Secretary to issue regulations or other guidance as the Secretary determines necessary to carry out the purposes of section 45Z(d)(5)(A)(iv), which excludes from the definition of ''transportation fuel'' any fuel produced from a fuel for which a credit under section 45Z is allowable.

Section 45Z(b)(1)(B)(ii) authorizes the Secretary to determine, in the case of any transportation fuel that is not a sustainable aviation fuel (SAF), whether a model is a successor model to the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model developed by the Argonne National Laboratory (ANL). Additionally, section 45Z(b)(1)(B)(i) directs the Secretary, subject to section 45Z(b)(1)(B)(ii) through (v), to annually publish a table setting forth the emissions rate for similar types and categories of transportation fuels based on the amount of lifecycle greenhouse gas (GHG) emissions as described in section 211(o)(1)(H) of the Clean Air Act (CAA) (42 U.S.C. 7545(o)(1)(H)), as in effect on August 16, 2022 (CAA–2022) for such fuels, expressed as kilograms of equivalent carbon dioxide (CO_2e) per 1,000,000 British thermal units (mmBTU), which a taxpayer must use for purposes of section 45Z. The proposed regulations cite to the CAA–2022 as enacted by section 1501(a)(2) of the Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 594, 1067 (2005), amended by section 202(a)(1) of the Energy Independence and Security Act of 2007, Public Law 110–140, 121 Stat. 1492, 1521–22 (2007).

Section 45Z(b)(1)(B)(iv) authorizes the Secretary to determine the regulations or methodologies for emissions rate adjustments to exclude any emissions attributed to indirect land use change.

Section 45Z(b)(1)(B)(v)(I) requires the Secretary to provide a distinct emissions rate with respect to any transportation fuel derived from animal manure. The emissions rate must be based on the specific animal manure feedstock, which may include dairy manure, swine manure, poultry manure, and any other sources that the Secretary determines to be appropriate.

Section 45Z(b)(1)(B)(v)(II) authorizes the Secretary to provide an emissions rate less than zero with respect to any transportation fuel derived from animal manure.

Section 1361(b)(3)(A) authorizes the Secretary to prescribe regulations providing exceptions to the subparagraph's treatment of a qualified subchapter S subsidiary (as defined in section 1361(b)(3)(B)) for purposes of the Code.

Section 4101(a)(1) authorizes the Secretary to prescribe regulations related to any registration required under section 4101, including the time, form, manner, and terms and conditions of such registration.

Section 4101(c) provides that rules similar to the rules of section 4222(c) apply to registration under section 4101. Section 4222(c) authorizes the Secretary to prescribe regulations related to the denial, revocation, or suspension of any registration under section 4222 if the Secretary determines that a registrant has used such registration to avoid the payment of tax or to postpone or interfere with the collection of tax, or that such denial, revocation, or suspension is needed to protect the revenue.

Section 6001 authorizes the Secretary to prescribe regulations related to recordkeeping, statements, and special returns.

Section 6417(h) directs the Secretary to issue such regulations or other guidance as may be necessary to carry out the purposes of section 6417.

Section 6418(h) directs the Secretary to issue such regulations or other guidance as may be necessary to carry out the purposes of section 6418.

These regulations would also be issued under the express delegation of authority under 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

I. Overview

Section 45Z, added to the Code by section 13704 of Public Law 117–169, 136 Stat. 1818, 1997 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA), and amended by section 70521 of Public Law 119–21, 139 Stat. 72, 276 (July 4, 2025), commonly known as the OBBBA, provides an income tax credit (section 45Z credit) for clean transportation fuel produced domestically after December 31, 2024, and sold by December 31, 2029. *See* section 13704(c) of the IRA; section 70521(d) of the OBBBA; section 45Z(g). The section 45Z credit is a general business credit under section 38 of the Code.

The section 45Z credit replaces an assortment of prior fuel incentives. Those incentives consisted of income tax credit, excise tax credit, and excise tax payment provisions for various biofuels and other alternative fuels sold for use as a fuel or used as a fuel, including biodiesel, renewable diesel, compressed natural gas, second generation biofuel, and SAF. *See* sections 40(b)(6); 40A(b)(1) and (2); 40B; 6426(c) through (e) and (k); and 6427(e).

Section 4101 authorizes the Secretary to require registration with respect to the section 4041 and section 4081 fuel excise taxes, and requires registration with respect to certain fuel tax credits, including the section 45Z credit. Section 4101(a)(1), as amended by section 70521(i) of the OBBBA, and section 45Z(f)(1)(A)(i)(I) impose a registration requirement under section 4101 (section 4101 registration) on a taxpayer claiming the section 45Z credit.

Section 6417, added to the Code by section 13801(a) of the IRA, and amended by sections 70512(j)(2) and 70522(c) of the OBBBA, allows an applicable entity to elect to treat applicable credits (as defined in section 6417(b)), including the section 45Z credit, as a payment against the tax imposed by subtitle A of the Code.

Section 6418, added to the Code by section 13801(b) of the IRA, and amended by sections 70512(h), 70513(b)(3)(B)(ii), and 70521(j)(2) of the OBBBA, allows an eligible taxpayer to elect to transfer eligible credits (as defined in section 6418(f)(1)), including the section 45Z credit.

A taxpayer making a section 6417 or section 6418 election must also complete pre-filing registration, as provided in regulations under those provisions. This pre-filing registration is distinct from the registration required for the section 45Z credit, which is done under section 4101.

II. The Section 45Z Credit

A. Credit Eligibility

Under section 45Z(a)(1)(A), if a taxpayer qualifies for a section 45Z credit, the taxpayer is eligible to claim a section 45Z credit for the taxable year in which the taxpayer sells a transportation fuel. To qualify for a section 45Z credit, a taxpayer must: (i) produce a transportation fuel that meets the requirements for suitability, emissions rate, coprocessing, and prevention of double crediting; (ii) produce the fuel at a qualified facility in the United States, including in any U.S. territories; (iii) be registered as a producer of clean fuel under section 4101 at the time of production; and (iv) sell the fuel to an unrelated person in a qualified sale during the taxable year. *See* section 45Z(a)(1) and (4), (d)(4), (d)(5)(A), and (f)(1). Transportation fuel produced after December 31, 2025, must be exclusively derived from a feedstock that was produced or grown in the United States, Mexico, or Canada. *See* section 45Z(f)(1)(A)(iii); section 70521(a)(2) of the OBBBA.

A taxpayer also cannot be: (i) a specified foreign entity, for taxable years beginning after July 4, 2025; or (ii) a foreign-influenced entity (other than a foreign-influenced entity described in section 7701(a)(51)(D)(i)(II) of the Code), for taxable years beginning after July 4, 2027. *See* sections 45Z(f)(8) and 7701(a)(51).

Section 45Z(d)(4) defines ''qualified facility'' as a facility used for the production of transportation fuels. However, the term ''qualified facility'' excludes any facility for which one of the following credits is allowed under section 38 for the taxable year: (i) the credit for production of clean hydrogen under section 45V of the Code (section 45V credit); (ii) the credit determined under section 46 of the Code to the extent that such credit is attributable to the energy credit determined under section 48 of the Code with respect to any specified clean hydrogen production facility for which an election is made under section 48(a)(15) (section 48(a)(15) election); and (iii) the credit for carbon oxide sequestration under section 45Q of the Code (section 45Q credit). Because these credits cannot be stacked with the section 45Z credit, this preamble refers to the section 45V credit, the section 48(a)(15) election, and the section 45Q credit collectively as the ''anti-stacking credits'' and individually as an ''anti-stacking credit.''

Section 45Z(d)(5)(A) defines ''transportation fuel'' as a fuel that meets four requirements. First, the fuel must be suitable for use as a fuel in a highway vehicle or aircraft. Second, the fuel must have a lifecycle GHG emissions rate (emissions rate) of not greater than 50 kilograms (kg) of CO_2e per mmBTU. Section 45Z(d)(1) defines ''mmBTU'' to mean 1,000,000 British thermal units; section 45Z(d)(2) defines ''CO_2e'' to mean, with respect to any GHG, the equivalent carbon dioxide (as determined based on relative global warming potential). Third, the fuel must

not be derived from coprocessing an applicable material (or materials derived from an applicable material) with a feedstock that is not biomass. Section 45Z(d)(5)(B)(i) defines ''applicable material'' to mean monoglycerides, diglycerides, and triglycerides; free fatty acids; and fatty acid esters. Section 45Z(d)(5)(B)(ii) defines ''biomass'' to have the same meaning as in section 45K(c)(3) of the Code, which provides that biomass means any organic material other than oil and natural gas (or any product thereof), and coal (including lignite) or any product thereof. Fourth, the fuel must not be produced from a fuel for which a section 45Z credit is allowable.

In the case of a taxpayer producing a transportation fuel that is SAF, section 45Z(f)(1)(A)(i)(II) requires the taxpayer to provide certification from an unrelated person.[1] For this purpose, section 45Z(a)(3) defines ''sustainable aviation fuel,'' which these proposed regulations refer to as a ''SAF transportation fuel,'' to mean the non-kerosene portion of liquid fuel that is a transportation fuel, is sold for use in an aircraft, is not derived from palm fatty acid distillates or petroleum, and meets the requirements of either: (i) ASTM International Standard D7566 or (ii) the Fischer Tropsch (FT) provisions of ASTM International Standard D1655, Annex A1.

Section 45Z(a)(4) requires a taxpayer to sell transportation fuel to an unrelated person: (i) for use by such person in the production of a fuel mixture; (ii) for use by such person in a trade or business; or (iii) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person. Section 45Z(f)(3) provides that persons are treated as related to each other if they would be treated as a single employer under the regulations prescribed under section 52(b) of the Code.[2] Section 45Z(f)(3) further provides that if a corporation is a member of an affiliated group of corporations filing a consolidated return, such corporation is treated as selling fuel to an unrelated person if another member of the group sells the fuel to an unrelated person. Section 45Z(f)(3) also authorizes the Secretary to prescribe similar sale attribution rules for other related entities, including rules for related persons with respect to which the taxpayer has reason to believe will sell fuel to an unrelated person in a manner described in section 45Z(a)(4).

Section 45Z(f)(1)(A)(i)(II) requires a taxpayer producing a SAF transportation fuel to provide certification (in such form and manner as the Secretary prescribes) from an unrelated person demonstrating compliance with: (i) any general requirements, supply chain traceability requirements, and information transmission requirements established under the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA); or (ii) for any methodology similar to CORSIA that satisfies the criteria under section 211(o)(1)(H) of the CAA–2022, requirements similar to the requirements described for CORSIA. A taxpayer producing a SAF transportation fuel must also provide such other information as the Secretary may require for purposes of carrying out section 45Z.

B. Credit Amount

Under section 45Z(a)(1), a taxpayer calculates the amount of the section 45Z credit by multiplying the applicable amount per gallon or gallon equivalent with respect to a transportation fuel produced by the taxpayer and sold in a qualified sale by the emissions factor for such fuel. Per section 45Z(a)(5), if the credit amount is not a multiple of one cent, then it is rounded to the nearest cent. A taxpayer's total section 45Z credit for a taxable year is the sum of the section 45Z credit for each transportation fuel sold during the taxable year.

1. Applicable Amount

For fuel produced after December 31, 2025, the applicable amount for any transportation fuel is either $0.20 or $1.00. *See* section 45Z(a)(2); section 70521(g)(2) of the OBBBA.

For fuel produced on or before December 31, 2025, the applicable amount varies depending on whether the transportation fuel is a SAF transportation fuel or is not a SAF transportation fuel (non-SAF transportation fuel) and is higher for SAF transportation fuel than for non-SAF transportation fuel. For non-SAF transportation fuel, the applicable amount is either $0.20 or $1.00. Section 45Z(a)(2). For SAF transportation fuel, the applicable amount is either $0.35 or $1.75. Section 45Z(a)(3) (repealed for fuel produced after December 31, 2025, by section 70521(g)(2) of the OBBBA).

The increased applicable amount is available if the taxpayer produces the transportation fuel at a qualified facility that satisfies the prevailing wage and apprenticeship (PWA) requirements.

Section 45Z(c)(1) provides that for calendar years beginning after 2024, the applicable amount must be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale of the transportation fuel occurs. Section 45Z(c)(2) provides that the inflation adjustment factor for the section 45Z credit is the inflation adjustment factor determined and published by the Secretary pursuant to section 45Y(c), determined by substituting ''calendar year 2022'' for ''calendar year 1992'' in section 45Y(c)(3). The inflation adjustment factor for purposes of section 45Z means, with respect to a calendar year, a fraction the numerator of which is the gross domestic product (GDP) implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2022. In this context, the term ''GDP implicit price deflator'' means the most recent revision of the implicit price deflator for the GDP as computed and published by the Department of Commerce before March 15 of the calendar year.

If any inflation-adjusted applicable amount is not a multiple of one cent, it must be rounded to the nearest multiple of one cent. Section 45Z(c)(1).

Section 45Z(f)(6)(A) provides that rules similar to the prevailing wage requirements of section 45(b)(7) apply. Section 45Z(f)(6)(B) provides a special rule for qualified facilities placed in service before January 1, 2025, under which such a facility need only satisfy prevailing wage requirements for any alteration or repair in taxable years beginning after December 31, 2024. Section 45Z(f)(7) provides that rules similar to the apprenticeship requirements of section 45(b)(8) apply. Section 1.45Z–3 provides additional rules on the PWA requirements under section 45Z.

2. Emissions Factor and Emissions Rate

Under section 45Z(b)(1)(A), a transportation fuel's emissions factor measures the reduction in a fuel's emissions rate, expressed as kg of CO_2e per mmBTU, relative to the statutory baseline emissions rate of 50 kg of CO_2e per mmBTU, expressed as a fraction of the statutory baseline. Expressed mathematically, the emissions factor calculation is as follows:

(50 kg CO_2e per mmBTU − emissions rate) ÷ 50 kg CO_2e per mmBTU

[1] Both the preamble to the proposed regulations and the proposed regulations use the term ''unrelated person'' when describing the certification required by section 45Z(f)(1)(A)(i)(II). Section 45Z(f)(1)(A)(i)(II) refers to an ''unrelated party,'' which is synonymous with an unrelated person as used in section 45Z(a)(4) and (f)(3).

[2] In determining eligibility for the section 45Z credit, a taxpayer must apply the controlled group rules under section 52 consistent with the statutory purpose of section 45Z.

Under section 45Z(b)(2), any emissions factor determined under section 45Z(b)(1)(A) that is not a multiple of 0.1 must be rounded to the nearest multiple of 0.1.

A taxpayer determines a fuel's emissions rate by either using the annual emissions rate table published by the Secretary or obtaining a provisional emissions rate (PER) determination from the Secretary. *See* section 45Z(b)(1)(B) and (D). The emissions rate may not be less than zero for any transportation fuel produced after December 31, 2025, except for fuel derived from animal manure. *See* section 45Z(b)(1)(B)(v) and (b)(1)(E); section 70521(b) and (c)(1) of the OBBBA.

Section 45Z(b)(1)(B)(i) directs the Secretary, subject to section 45Z(b)(1)(B)(ii) through (v), to annually publish a table setting forth the emissions rates for similar types and categories of transportation fuels based on the amount of lifecycle GHG emissions as described in section 211(o)(1)(H) of the CAA–2022 for such fuels, expressed as kg of CO_2e per mmBTU. Section 211(o)(1)(H) of the CAA–2022 defines lifecycle GHG emissions as ''the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator [of the Environmental Protection Agency (EPA)], related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.'' *See also* 42 U.S.C. 7602(a). Section 45Z(d)(3) provides that ''greenhouse gas'' has the same meaning as under section 211(o)(1)(G) of the CAA–2022.

Section 45Z divides transportation fuel into two categories for purposes of emissions rates: non-SAF transportation fuel and SAF transportation fuel. Section 45Z(b)(1)(B)(ii) and (iii) provides the methods for determining emissions rates in each case.

Section 45Z(b)(1)(B)(ii) provides that for non-SAF transportation fuel, the lifecycle GHG emissions of such fuel must be based on the most recent determinations under the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model developed by the ANL, or a successor model as determined by the Secretary.

Section 45Z(b)(1)(B)(iii) provides that for SAF transportation fuel, the lifecycle GHG emissions of such fuel is determined in accordance with: (i) the most recent CORSIA methodologies that have been adopted by the International Civil Aviation Organization (ICAO) with the agreement of the United States; or (ii) any methodology similar to the most recent CORSIA methodologies that satisfies the criteria under section 211(o)(1)(H) of the CAA–2022.

Section 45Z(b)(1)(B)(iv) provides that for transportation fuel produced after December 31, 2025, notwithstanding section 45Z(b)(1)(B)(i) through (iii), the emissions rate must be adjusted to exclude any emissions attributed to indirect land use change. *See* section 70521(c) of the OBBBA.

Section 45Z(b)(1)(B)(v) provides that for any transportation fuel derived from animal manure and produced after December 31, 2025, a distinct emissions rate must be provided with respect to such fuel based on the specific animal manure feedstock. Such an emissions rate may be less than zero. *See* section 70521(c) of the OBBBA.

In the case of any transportation fuel for which an emissions rate has not been established in the annual emissions rate table under section 45Z(b)(1)(B), a taxpayer producing such fuel may file a petition with the Secretary for determination of the PER with respect to such fuel. *See* section 45Z(b)(1)(D).

C. Other Rules

Section 45Z(f)(2) provides that, if a facility has more than one owner, production from the facility will be allocated among the owners in proportion to their respective ownership interests in the gross sales from such facility, except to the extent provided in regulations prescribed by the Secretary.

Section 45Z(f)(4) provides that under regulations prescribed by the Secretary, rules similar to the rules of section 52(d) will apply to a pass-thru in the case of estates and trusts.

Section 45Z(f)(5) provides that rules similar to the rules of section 45Y(g)(6) will apply for the allocation of the credit to patrons of an agricultural cooperative.

III. Section 4101 Registration

Section 4101 of the Code generally provides rules for taxpayer registration. Section 4101(a)(1) provides a specific delegation of authority to the Secretary to prescribe the form and manner of registration by requiring every person required to register under section 4101 to register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. Section 4101(a)(1) further provides that a section 4101 registration may be used only in accordance with regulations prescribed under section 4101. Section 4101(a)(5) requires reregistration under regulations prescribed by the Secretary in the event of certain changes in ownership.

A. Section 45Z Registration Requirement

Section 45Z(f)(1)(A)(i)(I) provides that no section 45Z credit shall be determined unless the taxpayer is registered as a producer of clean fuel under section 4101 at the time of production. Section 4101(a)(1) requires registration by ''every person producing a fuel eligible for the clean fuel production credit (pursuant to section 45Z),'' effective for transportation fuel produced after December 31, 2024.[3]

B. Denial, Revocation, or Suspension of Registration

Under section 4101(c), rules similar to the rules of section 4222(c) apply for purposes of denial, revocation, or suspension of registration under section 4101. Section 4222 generally requires registration for certain tax-free sales under section 4221. Section 4222(c) provides that under regulations prescribed by the Secretary, the registration of any person under section 4222 may be denied, revoked, or suspended if the Secretary determines: (i) that such person has used such registration to avoid the payment of any tax imposed by chapter 32 of the Code (chapter 32), or to postpone or in any manner to interfere with the collection of any such tax, or (ii) that such denial, revocation, or suspension is necessary to protect the revenue. The flush language of section 4222(c) provides that denial, revocation, or suspension under section 4222(c) is in addition to any penalty provided by law for any act or failure to act.

Section 48.4222(a)–1 provides rules for registration, including application instructions. Section 48.4222(c)–1 provides rules for revocation or suspension of registration and authorizes the IRS in certain circumstances to revoke or temporarily suspend, upon written notice, the registration of any person under section 4222.

IV. Section 6417

Section 6417 permits an applicable entity to elect to treat an applicable credit determined with respect to the

[3] See section 13704(b)(5) of the IRA, as amended by section 70521(i) of the OBBBA.

applicable entity for the taxable year as a payment against Federal income taxes imposed by subtitle A of the Code equal to the amount of the credit. Section 6417(b)(9) provides that the 45Z credit is an applicable credit.

V. Section 6418

Section 6418 permits an eligible taxpayer to elect to transfer all or a portion of an eligible credit determined with respect to such taxpayer for any taxable year to an unrelated taxpayer. Section 6418(f)(1)(A)(viii) provides that the section 45Z credit is an eligible credit.

VI. Prior Guidance and Publications

A. Notice 2022–58 (Request for Feedback)

Notice 2022–58, 2022–47 I.R.B. 483 (released November 3, 2022), requested stakeholder feedback on questions arising under section 45Z that should be addressed in guidance.

B. Treasury Decision 9988 (Elective Payment Election Regulations)

The Treasury Department and the IRS published Treasury Decision 9988 in the **Federal Register** (89 FR 17546, March 11, 2024), which finalized regulations concerning the election to treat applicable credits as a payment of Federal income tax under section 6417 (Elective Payment Election Regulations). The Elective Payment Election Regulations contain rules on section 6417 that apply with respect to an applicable credit, including the section 45Z credit. Section 1.6417–2(c)(4) requires an applicable entity or electing taxpayer to own the underlying eligible credit property except in the case of the advanced manufacturing production credit under section 45X.

C. Treasury Decision 9993 (Credit Transfer Election Regulations)

The Treasury Department and the IRS published Treasury Decision 9993 in the **Federal Register** (89 FR 34770, April 30, 2024), which finalized regulations concerning the transfer election with respect to eligible credits under section 6418 (Credit Transfer Election Regulations). The Credit Transfer Election Regulations contain rules on section 6418 that apply with respect to an eligible credit, including the section 45Z credit. Section 1.6418–2(d)(1) requires an eligible taxpayer to own the underlying eligible credit property except in the case of the advanced manufacturing production credit under section 45X.

D. Notice 2024–49 (Registration Requirement)

Notice 2024–49, 2024–26 I.R.B. 1781 (released May 31, 2024), provides guidance on the section 45Z registration requirements, including the time, form, and manner of registration. Section 3 of Notice 2024–49 also provides general definitions, initial definitions of SAF and non-SAF transportation fuels, and an initial, non-exclusive list of primary feedstocks, to help taxpayers applying for registration identify fuels and primary feedstocks that may qualify for the section 45Z credit. Notice 2025–10, 2025–6 I.R.B. 682 (released January 10, 2025), discussed later in this Background section, modifies and supersedes these definitions, and replaces them with the definitions in the Appendix to Notice 2025–10.

E. Treasury Decision 9998 (PWA Regulations)

The Treasury Department and the IRS published Treasury Decision 9998 in the **Federal Register** (89 FR 53184, June 25, 2024), which finalized regulations concerning the PWA requirements under several sections of the Code (PWA Regulations), including section 45Z. Section 1.45Z–3 provides rules on the application of the PWA requirements to section 45Z. The preamble to the PWA Regulations contains a detailed discussion of the PWA requirements, including applicability dates and transition rules with respect to the section 45Z credit. These proposed regulations only address § 1.45Z–3 for context and to the extent necessary to clarify the rules herein. The PWA Regulations are otherwise outside the scope of this rulemaking.

F. Fact Sheet FAQs

A section 45Z Fact Sheet, FS–2024–25 (released July 10, 2024), provides answers to certain frequently asked questions (FAQs) on the section 45Z registration requirements. This Fact Sheet is available at *https://www.irs.gov/newsroom/frequently-asked-questions-about-applying-for-registration-for-the-clean-fuel-production-credit-under-ss-45z.*

G. Notice 2025–10 (Notice of Intent To Propose Rules)

Notice 2025–10 announced that the Treasury Department and the IRS intended to propose regulations (forthcoming proposed regulations) addressing the section 45Z credit. In addition to providing background on the section 45Z credit, Notice 2025–10 explains the intended rules to be included in forthcoming proposed regulations and requests public feedback on the draft regulatory text in the Appendix to the notice. These proposed regulations are the forthcoming proposed regulations announced in Notice 2025–10.

H. Notice 2025–11 (Emissions Rate Guidance)

Notice 2025–11, 2025–6 I.R.B. 704 (released January 10, 2025), provides guidance regarding methodologies for determining emissions rates under section 45Z and provides the initial emissions rate table required by section 45Z(b)(1)(B)(i). Notice 2025–11 also requests feedback related to emissions rates for the section 45Z credit.

The public feedback received in response to Notice 2025–10, Notice 2025–11, and Notice 2022–58 was carefully considered in the development of these proposed regulations.

I. Notice 2025–37 (2025 Inflation Adjustment Factor)

Notice 2025–37, 2025–30 I.R.B. 198 (July 21, 2025), provides the calendar year 2025 inflation adjustment factor and applicable amounts for the section 45Z credit.

Explanation of Provisions

I. Overview

A. Section 45Z Regulations

These proposed regulations include six sections relating to section 45Z, proposed §§ 1.45Z–1, 1.45Z–2, 1.45Z–4 through 1.45Z–6, and 1.4101–1. These sections, together with existing § 1.45Z–3, comprise the ''section 45Z regulations'' referenced in this Explanation of Provisions. The section 45Z regulations would set forth provisions to determine the eligibility for, and the amount of, the section 45Z credit for the production of clean transportation fuel. These proposed regulations would also provide rules for registration and for filing claims for the section 45Z credit.

Proposed § 1.45Z–1 would provide the definitions of terms generally applicable for purposes of the section 45Z regulations. Proposed § 1.45Z–2 would provide general rules applicable to section 45Z, such as rules for determining the amount and timing of the credit, including rules for the emissions factor and emissions rate for transportation fuel and the PER process. Proposed § 1.45Z–4 would provide special rules applicable to section 45Z, including required registration, anti-stacking, anti-abuse, production attribution, facility ownership, foreign feedstock and prohibited foreign entity restrictions, and recordkeeping and

substantiation rules. Proposed § 1.45Z–5 would provide the procedures for certification of emissions rates for SAF transportation fuel. Proposed § 1.45Z–6 would provide procedures for claiming a section 45Z credit. Proposed § 1.4101–1 would provide rules for registration under section 4101.

B. Amendments to Existing Sections 6417, 6418, and 4101 Regulations

The proposed regulations would amend §§ 1.6417–2(c), 1.6418–2(d), and 48.4101–1. The proposed amendments to §§ 1.6417–2(c)(4) and 1.6418–2(d)(1) would clarify that sections 45Z and 45(d)(3)(C) do not require a taxpayer to own the underlying eligible credit property. Proposed § 48.4101–1(a)(7) would provide that a letter of registration is not a determination of tax treatment under the Code or a determination letter. Proposed § 48.4101–1(a)(8) would provide rules for reregistration in the event of a change of ownership or a change of employer identification number (EIN).

II. Definitions

Proposed § 1.45Z–1 would provide definitions that apply for purposes of section 45Z and the proposed regulations. In addition, proposed § 1.45Z–1 would clarify key statutory terms as discussed in Parts II.A. through II.M. of this Explanation of Provisions. The definitions would also adopt the statutory language for the terms ''applicable amount'' (section 45Z(a)), ''applicable material'' (section 45Z(d)(5)(B)(i)), ''biomass'' (section 45Z(d)(5)(B)(ii) (*citing* section 45K(c)(3))), ''CO_2e'' (section 45Z(d)(2)), ''emissions factor'' (section 45Z(b)(1)(A)), ''greenhouse gas (GHG)'' (section 45Z(d)(3)), ''lifecycle GHG emissions'' (section 45Z(b)(1)(B)(i)), and ''mmBTU'' (section 45Z(d)(1)), and identify abbreviations used in the proposed regulations, such as ''ASTM,'' ''Code,'' U.S. Department of Energy (DOE), EPA, ''Secretary,'' IRS, ''section 45Z credit,'' and ''section 45Z regulations.'' Further, the definitions would specify the relevant CORSIA methodologies, define an emissions rate in accordance with section 45Z(b)(1), and define terms associated with the PER process (*see* Part III.F.2. of this Explanation of Provisions).

A. 45ZCF–GREET Model

Proposed § 1.45Z–1(b)(1) would define ''45ZCF–GREET model'' as the model by that name developed by the ANL and published by the DOE for use in determining the amount of lifecycle GHG emissions for purposes of section 45Z. The 45ZCF–GREET model is a user interface designed to accept input related to a transportation fuel production facility, execute calculations in the background, and display the full lifecycle (in other words, well-to-wheel) carbon intensity of produced transportation fuel, measured in kg of CO_2e per mmBTU.[4] The 45ZCF–GREET model is currently available at *https://www.energy.gov/eere/greet.* All publicly available versions of the 45ZCF–GREET model, the accompanying user manual, additional information including FAQs, and any log of changes to the model are available at *https://www.energy.gov/eere/greet.* Part III.E.3. of this Explanation of Provisions discusses the use of the 45ZCF–GREET model for purposes of section 45Z(b)(1)(B).

B. Claim

Proposed § 1.45Z–1(b)(7) would define ''claim'' to mean a completed Form 7218, *Clean Fuel Production Credit,* including all required information and documentation that a taxpayer files with its Federal income tax return or Federal information return for the taxable year for which the section 45Z credit is determined. A ''claim'' would include the making of an election under section 6417 or section 6418. The proposed regulation would also define ''Form 7218'' to mean Form 7218 and any successor form(s). These defined terms, coupled with the claim filing procedures in proposed § 1.45Z–6, would explain how a taxpayer may claim a section 45Z credit.

C. Fuel

Proposed § 1.45Z–1(b)(19) would define ''fuel'' as any liquid or gaseous substance that can be consumed to supply heat or power. Therefore, for purposes of section 45Z, the term ''fuel'' would not include electricity. For an additional explanation, see Part II.I.2. of this Explanation of Provisions.

D. Gallon Equivalent

Section 45Z(a)(1)(A) bases the section 45Z credit on a gallon (or gallon equivalent) of transportation fuel without defining the terms or providing a baseline for non-liquid fuels. The proposed regulations would use a gallon measurement for liquid fuels and a gallon equivalent for non-liquid fuels. Proposed § 1.45Z–1(b)(20)(i) would define ''gallon equivalent'' for purposes of section 45Z(a)(1)(A) to mean, with respect to any non-liquid fuel, the amount of such fuel that has the energy equivalent of a gallon of gasoline, which refers to the amount of such fuel that has a Btu content of 116,090 (lower heating value). The proposed regulations would use gasoline as the most appropriate baseline fuel for determining gallon equivalency because gasoline is the most common transportation fuel in the United States, and section 45Z is designed to incentivize domestic production of transportation fuels that may serve as alternatives to existing fossil fuels. The use of a gasoline gallon equivalent is also consistent with the gasoline gallon equivalent requirement in section 6426(d)(3), which provided an excise tax credit for many of the same types of fuel that are eligible for the section 45Z credit. Using the gasoline gallon equivalent standard in section 6426(d)(3) in the section 45Z context is further supported by the fact that section 45Z replaced section 6426(d). Proposed § 1.45Z–1(b)(20)(ii) would provide that a fuel is considered non-liquid if it is in a gaseous state at ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit, respectively.

To facilitate implementation of a gallon equivalent standard for non-liquid fuels, it is necessary to specify whether the standard is based on a lower heating value or a higher heating value of the baseline fuel, as the two types of heating values have different energy contents. The proposed regulations would use a lower heating value, rather than a higher heating value, because it is a better representation of the useful energy provided by a transportation fuel. Proposed § 1.45Z–1(b)(20)(iii) would explain that the gallon equivalent for a non-liquid fuel is calculated by dividing the lower heating value of that fuel (measured in Btu) by the lower heating value of a gallon of gasoline (116,090 Btu), rounded to 5 decimal places. Proposed § 1.45Z–1(b)(20)(iv) and (v) would provide the lower heating values of some non-liquid fuels and an example of the calculation of a gallon equivalent, respectively.

E. Producer and Taxpayer Treated as a Producer

1. In General

Proposed § 1.45Z–1(b)(26)(i) would generally define the term ''producer'' for purposes of section 45Z as the person that engages in the production of a transportation fuel. Proposed § 1.45Z–1(b)(26)(iii) would provide examples illustrating the application of the definition. Section 45Z requires the taxpayer to be registered as a producer of clean fuel but does not specify who

[4] As used in the preamble to these proposed regulations, the term ''well-to-wheel'' includes well-to-wake with respect to aviation fuel.

the producer is if the production process involves multiple persons and multiple steps. The proposed regulations would clarify this point.

2. Producer of Alternative Natural Gas

Proposed § 1.45Z–1(b)(26)(ii) would provide that the ''producer'' of alternative natural gas, including renewable natural gas (RNG), for purposes of section 45Z is the person that processes the untreated sources of alternative natural gas (processor) to remove water, carbon dioxide, and other impurities such that it is interchangeable with fossil natural gas. This definition would be consistent with the purpose of section 45Z because the processor is the most active participant in the production process, and section 45Z incentivizes production. The definition of ''producer'' would therefore exclude any person that removes conventional or alternative natural gas (CANG) from a pipeline, compresses it further after removal, and then sells such further-compressed CANG (compressor). Compression of CANG that is already interchangeable with fossil natural gas also would not meet the proposed definition of ''production'' (see Part II.F. of this Explanation of Provisions).

Several stakeholders have raised questions about who should be considered the producer of RNG for purposes of section 45Z. The Treasury Department and the IRS understand that the processor and the compressor are typically different persons, and that the processor typically performs most of the active production and owns (or uses) a facility, as that term is defined in proposed § 1.45Z–1(b)(18). The Treasury Department and the IRS further understand that the compressor typically performs the final compression step before a fuel is used in a vehicle and typically owns (or uses) only compression equipment rather than a facility. As a result, the compressor is not engaging in production of a transportation fuel under section 45Z(a)(1) and the production standard in proposed § 1.45Z–1(b)(27), and would be unable to meet the requirement that transportation fuel be produced at a qualified facility as provided in section 45Z(d)(4) and proposed § 1.45Z–1(b)(28).

F. Production

Proposed § 1.45Z–1(b)(27)(i) would define ''production'' (except for purposes of section 45Z(a)(4)(A)) as all steps and processes used to make a transportation fuel. Production would begin with the processing of primary feedstock(s) and end with a transportation fuel ready to be sold in a qualified sale. Production would not include instances in which a person uses a primary feedstock to produce a fuel that meets the same ASTM standard as the primary feedstock. The definition of ''production'' would also incorporate the rules in section 45Z(f)(1)(A)(ii) and (f)(1)(B) requiring production to occur in the United States.

The definition of ''production'' would further clarify that minimal processing would not qualify as production for purposes of the section 45Z credit. Minimal processing would generally include creating a fuel mixture or otherwise engaging in activities that do not result in a chemical transformation. However, with respect to CANG, production would include processing untreated sources of alternative natural gas to remove water, carbon dioxide, and other impurities such that it is interchangeable with fossil natural gas. Production of CANG would not include compressing CANG that is already interchangeable with fossil natural gas to a higher pressure.

Under the proposed regulations, the blending of a transportation fuel into another fuel to create a fuel mixture, regardless of whether the fuel mixture itself satisfies the requirements of section 45Z(d)(5)(A), would not constitute production of a transportation fuel because the blending process would constitute minimal processing. For example, the blending of ethanol and gasoline would not constitute production of a transportation fuel.

Further, importing fuel that is largely finished fuel and undergoes only minimal processing in the United States would not constitute production. Proposed § 1.45Z–1(b)(27)(ii) would provide examples of minimal processing, including instances in which the same person engages in production and subsequent blending.

In enacting section 45Z, Congress replaced fuel credits and payments that specifically incentivize blending (including the credits under sections 40B and 6426(k), and the payment under section 6427(e)) with the section 45Z production credit. Congress's shift from blending incentives to a production incentive demonstrates that Congress no longer intended to incentivize blending. Therefore, equating production with blending would be contrary to Congress's purpose in enacting section 45Z.

G. Qualified Facility

1. Facility

Proposed § 1.45Z–1(b)(18) would define a ''facility,'' as used in section 45Z(d)(4) and the proposed regulations, to mean a single production line that produces a transportation fuel and would include all components that function interdependently to produce a transportation fuel. The definition of ''facility'' would also clarify the treatment of indirect, post-production, and multipurpose equipment. The definition would, for instance, exclude CANG compression equipment from a facility because it is post-production equipment. The definition would include examples involving carbon capture equipment and SAF transportation fuel.

The proposed definition of ''facility'' is neutral as to geographic proximity of the components of the production line and focuses instead on interdependent pieces of equipment used to produce transportation fuel. This definition is consistent with how provisions of the Code under which similar tax credits are determined define ''facility.'' It is also consistent with stakeholders' requests that a facility be narrowly defined to minimize overlap with other credits and their concerns that physical boundaries may be inadequate. Accordingly, the proposed definition considers that a section 45Z facility may be co-located with another credit-eligible facility, and that some production equipment may be located upstream or downstream from, or in a different building than, other equipment.

2. Qualified Facility

Proposed § 1.45Z–1(b)(28)(i) would incorporate the definitions of ''qualified facility'' in section 45Z(d)(4) and ''facility'' in proposed § 1.45Z–1(b)(18) and clarify that a ''qualified facility'' must satisfy the anti-stacking rules in section 45Z(d)(4)(B) and proposed § 1.45Z–4(b). Proposed § 1.45Z–1(b)(28)(ii) would define the term ''anti-stacking credit'' to mean any of the three credits listed in section 45Z(d)(4)(B).

H. Qualified Sale

The draft regulatory text in the Appendix to Notice 2025–10 used the term ''qualifying sale.'' The proposed regulations would instead use the term ''qualified sale.'' Proposed § 1.45Z–1(b)(29) would define a ''qualified sale'' as a sale of a transportation fuel in a manner described in section 45Z(a)(4). The definition would also: (i) clarify the term ''sold for use in a trade or business'' for purposes of section 45Z(a)(4)(B); (ii) incorporate the sale attribution rule in section 45Z(f)(3) if fuel is sold by another member of the taxpayer's consolidated group (as defined in § 1.1502–1(b) and (h),

respectively); and (iii) prescribe an additional sale attribution rule, as authorized by section 45Z(f)(3), for fuel sold by a related person if the taxpayer is not a member of a consolidated group.

The draft regulatory text in the Appendix to Notice 2025–10 defined the term ''sold for use in a trade or business'' to mean sold for use as a fuel in a trade or business within the meaning of section 162 of the Code. The term did not include a sale for blending or for further processing, including use as a primary feedstock to produce another fuel. Many stakeholders raised concerns about the interpretation of ''sold for use in a trade or business.'' They noted that in the fuel industry, many producers sell to related or unrelated intermediaries, such as wholesalers or dealers, rather than directly to unrelated final purchasers. They asserted that the ''use as a fuel'' language could prevent all sales for resale, such as those to intermediary dealers or wholesalers, from qualifying for the section 45Z credit. These stakeholders requested that the ''use as a fuel'' language be removed and that the phrase ''use . . . in a trade or business'' be incorporated as written in section 45Z(a)(4)(B). Stakeholders also said that a ''use as a fuel'' limitation could undercut the language in section 45Z(d)(5)(A), which requires only that a transportation fuel be ''suitable for use as a fuel in a highway vehicle or aircraft,'' but not actually so used.

The proposed regulations would adopt the stakeholders' suggestion to remove the ''use as a fuel'' language from the definition of ''sold for use in a trade or business.'' Under the proposed regulations, ''trade or business'' would have the same meaning as in section 162 of the Code. The meaning of ''sold for use'' would be determined under these proposed regulations and would apply solely for purposes of section 45Z. The proposed regulations would also explicitly clarify that the term ''sold for use in a trade or business'' includes the sale of fuel to an unrelated person that subsequently resells the fuel in its trade or business.

The proposed regulations retain the draft regulatory text from the Appendix to Notice 2025–10 that excludes a sale for blending from the definition of ''sold for use in a trade or business.'' A sale for blending (if made to an unrelated person) would qualify as a sale for use in the production of a fuel mixture under section 45Z(a)(4)(A) and proposed § 1.45Z–1(b)(29)(i)(A). Therefore, including a sale for blending in the ''sold for use in a trade or business'' definition, which relates to section 45Z(a)(4)(B), would render a significant part of section 45Z(a)(4)(A) superfluous.

The proposed regulations do not retain the draft regulatory text from the Appendix to Notice 2025–10 that defined ''sold for use in a trade or business'' to exclude a sale for further processing, including use as a primary feedstock to produce another fuel. To prevent double crediting, the OBBBA amended section 45Z(d)(5) to exclude from the definition of a ''transportation fuel'' any fuel produced from a fuel for which a section 45Z credit is allowable. *See* section 70521(e) of the OBBBA. This statutory revision suggests that a sale for use as a primary feedstock to produce another fuel may qualify as a sale for use in a trade or business under section 45Z(a)(4)(B). The proposed regulations would align the definition of ''sold for use in a trade or business'' with the statutory language.

The proposed regulations would further define ''sold for use in a trade or business'' to exclude a sale of fuel to a reseller that subsequently sells the fuel at retail to another person and places the fuel in the tank of such other person. Such a sale (if made to an unrelated person) would be a qualified sale under section 45Z(a)(4)(C) and proposed § 1.45Z–1(b)(29)(i)(C). Therefore, inclusion of such sales in the definition of ''sold for use in a trade or business,'' which relates to section 45Z(a)(4)(B), would render section 45Z(a)(4)(C) superfluous.

As noted earlier, the proposed definition of ''sold for use in a trade or business'' gives meaning to section 45Z(a)(4)(A) and (C) and is consistent with a plain reading of section 45Z(a)(4)(B). The proposed definition is also consistent with the ''suitable for use as a fuel in a highway vehicle or aircraft'' language in section 45Z(d)(5)(A).

The draft regulatory text in the Appendix to Notice 2025–10 incorporated the sale attribution rule in section 45Z(f)(3) for fuel sold by another member of the taxpayer's consolidated group. Many stakeholders requested the adoption of a broader ''look-through'' rule for sales made through related intermediaries, so that a taxpayer would be treated as selling fuel to an unrelated person if a related person (for example, a related intermediary dealer or wholesaler) ultimately sold the fuel to an unrelated person. The stakeholders pointed to similar look-through rules that the Treasury Department and the IRS adopted with regard to credits under sections 45 and 45J of the Code in Notice 2008–60, 2008–30 I.R.B. 178, and Notice 2023–24, 2023–13 I.R.B. 571, respectively. The stakeholders expressed that many fuel producers are not organized as corporations and cannot utilize the sale attribution rule under section 45Z(f)(3).

After the release of Notice 2025–10, the OBBBA added rulemaking authority to section 45Z(f)(3) that allows the Secretary to prescribe additional related-person sale attribution rules similar to the statutory rule. *See* section 70521(f) of the OBBBA. Based on this new grant of authority, the proposed regulations would adopt the stakeholders' suggestion regarding a broader look-through rule for sales made through related persons. Proposed § 1.45Z–1(b)(29)(iv) would provide that, for purposes of section 45Z, a taxpayer that is not a member of a consolidated group is treated as selling fuel to an unrelated person if a related person sells the fuel to the unrelated person. This rule would apply to all sales made by related persons except those specifically addressed in section 45Z(f)(3) and proposed § 1.45Z–1(b)(29)(iii).

Proposed § 1.45Z–1(b)(29)(v) would provide examples illustrating the definition of ''qualified sale,'' including the ''sold for use in a trade or business'' definition as it relates to section 45Z(a)(4)(B), the sale attribution rule for fuel sold by another member of a taxpayer's consolidated group, the sale attribution rule for fuel sold by a related person (other than another member of a taxpayer's consolidated group), and a sale made by a taxpayer that produces and subsequently blends a transportation fuel.

I. Transportation Fuel

1. In General

Proposed § 1.45Z–1(b)(34) would define ''transportation fuel'' as provided in section 45Z(d)(5)(A), and would also define associated terms. The proposed regulations would define the term ''suitable for use as a fuel in a highway vehicle or aircraft'' (suitable for use) to mean that the fuel has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft, or may be blended into a fuel mixture that has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft. The proposed definition of ''suitable for use'' is consistent with longstanding excise tax rules under § 48.4081–1(c)(2) of the Manufacturers and Retailers Excise Tax Regulations, with which the fuel industry is familiar.

The proposed regulations would also clarify that actual use as a fuel in a highway vehicle or aircraft is not required. For example, diesel fuel that has practical and commercial fitness for use as a fuel in a highway vehicle or

aircraft, but is ultimately used as marine fuel, would satisfy the ''suitable for use'' standard. The proposed regulations would further provide that CANG is suitable for use once it is produced so that it is interchangeable with fossil natural gas and would require only minimal processing (for example, further compression or liquefaction) to meet the specifications of ASTM D8080. In addition, the proposed regulations would also provide that a fuel that does not require further processing and that may be blended with or used as a component of taxable fuel (within the meaning of section 4083 of the Code) is suitable for use.

The proposed regulations would define the term ''produced from a fuel for which a section 45Z credit is allowable,'' as used in section 45Z(d)(5)(A)(iv), to mean that a fuel has a primary feedstock that meets the definition of a transportation fuel under section 45Z (without regard to section 45Z(d)(5)(A)(iv)). This proposed rule would prevent double crediting by ensuring that only the first transportation fuel in a production chain qualifies for a section 45Z credit. *See* section 70521(e) of the OBBBA. Thus, if one fuel is used as a primary feedstock to produce a second fuel, and the first fuel qualifies as a transportation fuel for purposes of section 45Z, the second fuel would not qualify for a section 45Z credit. For instance, SAF produced from ethanol as a primary feedstock, and hydrogen produced from RNG as a primary feedstock, may not qualify as transportation fuel for purposes of section 45Z. However, a fuel could still qualify for a section 45Z credit if its production process uses a transportation fuel solely as a process fuel or other non-primary-feedstock input.

The proposed regulations would provide examples illustrating the definitions of ''suitable for use'' and ''produced from a fuel for which a section 45Z credit is allowable.''

2. Electricity

The proposed regulations would not include electricity in the definition of ''transportation fuel,'' for several reasons. Electricity production would therefore be ineligible for the section 45Z credit.

First, at the time section 45Z was enacted, the Code contained an assortment of income tax credit, excise tax credit, and excise tax payment provisions for various biofuels and other alternative fuels sold for use as a fuel or used as a fuel. These included incentives for biodiesel, renewable diesel, and several different alternative fuels (including compressed natural gas and second generation biofuel). Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 117th Congress,* JCS 1–23, at 278 (Dec. 31, 2023). Congress designed the section 45Z credit to replace these incentives, which were only available for liquid or gaseous fuels. *See* sections 40(b)(6); 40A(b)(1) and (2); 40B; 6426(c) through (e) and (k); 6427(e). Therefore, for purposes of section 45Z, it would be reasonable to understand the term ''fuel'' as referring to a liquid or gaseous substance that can be consumed to supply heat or power. As a result, the term ''transportation fuel'' under the proposed regulations would not include electricity.

Second, the anti-stacking rules in section 45Z(d)(4)(B) disallow receiving both a section 45Z credit and certain other credits with respect to the same facility for a taxable year. *See* proposed § 1.45Z–1(b)(28)(ii) (definition of anti-stacking credit); Part IV.B. of this Explanation of Provisions (discussion of anti-stacking rules).

The inclusion of the anti-stacking rules indicates that Congress understood the potential for activity at a particular facility to generate multiple credits for a taxable year and wished to foreclose that possibility. However, the section 45Y clean electricity production credit is not included in the anti-stacking rules, which indicates that the production of electricity is not eligible for the section 45Z credit. Thus, Congress's omission of the section 45Y credit from the anti-stacking rules suggests that Congress did not understand the term ''fuel'' to include electricity for purposes of section 45Z. Further, Notice 2025–10, which stated that the forthcoming proposed regulations intended to exclude electricity as a transportation fuel, was published approximately 6 months before the enactment of the OBBBA. Though the OBBBA amended certain aspects of section 45Z discussed in Notice 2025–10, including the definition of ''transportation fuel,'' the OBBBA did not amend or clarify the definition of ''transportation fuel'' to include electricity.

Third, the Code already provides a separate credit for clean electricity production under section 45Y. When Congress created the section 45Z credit, it also created the section 45Y credit. Generally, the section 45Y credit is not limited based on how the electricity is ultimately used. If the definition of ''transportation fuel'' in section 45Z were to include electricity, there would be significant overlap between the electricity eligible for a credit under section 45Z and the electricity eligible for a credit under section 45Y. Further, a reading of section 45Z to include electricity in the definition of ''transportation fuel'' would not be consistent with Congressional intent in separately enacting section 45Y to incentivize clean electricity production and section 45Z to incentivize production of clean transportation fuel.

J. Non-SAF Transportation Fuel

Proposed § 1.45Z–1(b)(24)(i) would define ''non-SAF transportation fuel'' for purposes of section 45Z as any transportation fuel that is not a SAF transportation fuel. Proposed § 1.45Z–1(b)(24)(ii) would provide a non-exclusive list of non-SAF fuels that may qualify as a transportation fuel, as well as descriptions of such fuels. A non-SAF fuel described in proposed § 1.45Z–1(b)(24)(ii) would also need to meet all the other applicable requirements under section 45Z to qualify as a transportation fuel. The list of non-SAF fuels would generally track those fuels listed in section 3.03 of Notice 2024–49. Proposed § 1.45Z–1(b)(24)(ii) would also retain a few modifications that Notice 2025–10 made to the definitions in Notice 2024–49 to address concerns raised by stakeholders. Consistent with Notice 2025–10, the proposed regulations would clarify the description of low-GHG CANG, including the ASTM D8080 reference, and would list ASTM D1152 (neat methanol) as a specification for low-GHG methanol in addition to ASTM D5797 (fuel blend methanol).

The Treasury Department and the IRS are cognizant of existing business practices in which producers make fuel that may not meet all the proposed ASTM specifications for that particular fuel. Therefore, the proposed ASTM specifications would be both non-exhaustive and non-exclusive with respect to determining whether a fuel is a transportation fuel for purposes of section 45Z. Prescribing exclusive fuel-by-fuel specifications in these proposed regulations would be impractical and may unintentionally restrict future market developments. The Treasury Department and the IRS request comments on this general approach and whether in some cases additional specificity is needed.

K. SAF Transportation Fuel

Proposed § 1.45Z–1(b)(30) would define ''SAF transportation fuel'' to mean SAF as defined in section 45Z(a)(3), and would also define associated terms. Further, the proposed regulations would clarify that a synthetic blending component sold to a

person that blends the fuel into a fuel mixture described in ASTM D7566 is ''sold for use in an aircraft'' within the meaning of section 45Z(a)(3).

L. Types and Categories of Transportation Fuel

Proposed § 1.45Z–1(b)(35) would define the term ''type of transportation fuel'' as a particular kind of fuel, and the term ''category of transportation fuel'' as the unique primary feedstock and pathway used to produce a type of transportation fuel. The definitions would clarify those terms as used in section 45Z(b)(1)(B)(i).

M. Unrelated Person

Consistent with section 45Z(f)(3), proposed § 1.45Z–1(b)(36) would define the term ''unrelated person'' as a person not related to the taxpayer. The term ''unrelated party'' has the same meaning as ''unrelated person'' for purposes of the certification required by section 45Z(f)(1)(A)(i)(II)(aa). The definition would also incorporate the related person definition in section 45Z(f)(3).

III. General Rules

Proposed § 1.45Z–2 would provide general rules regarding the section 45Z credit. The proposed regulations would incorporate and clarify the rules in section 45Z(a) through (c) regarding the amount of the credit, the credit calculation, the timing of the credit, emissions factors, and emissions rates (including the emissions rate table and the PER process).

A. Amount of Credit

Proposed § 1.45Z–2(a)(1) would incorporate and clarify the credit calculation rules in section 45Z(a)(1). Proposed § 1.45Z–2(a)(2) would provide that the volume of a liquid fuel is measured on the basis of gallons adjusted to ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit. The proposed rule would reference proposed § 1.45Z–1(b)(20)(ii) and (iii), respectively, for the determination of whether a fuel is liquid or non-liquid and the calculation of the gallon equivalent of a non-liquid fuel.

Proposed § 1.45Z–2(a)(3) would provide rules and examples for the calculation of the section 45Z credit. Proposed § 1.45Z–2(a)(3)(i) would implement the rounding rule provided in section 45Z(a)(5) for credit amounts and would clarify that the rule applies only after multiplying the applicable amount, quantity of fuel, and emissions factor. Proposed § 1.45Z–2(a)(3)(ii) would require pro rata allocation for sales of transportation fuel produced after December 31, 2024, and held in common storage with other fuels.

Prior to the enactment of the OBBBA, the applicable amount meant either the base amount provided in section 45Z(a)(2)(A) or the alternative amount provided in section 45Z(a)(2)(B), with an increased base amount and alternative amount for SAF transportation fuel under section 45Z(a)(3)(A). Section 70521(g)(2) of the OBBBA eliminated the increased base amount and alternative amount for SAF transportation fuel produced after December 31, 2025. Proposed § 1.45Z–2(a)(4) would define the term ''applicable amount'' in accordance with section 45Z(a)(2), as amended by the OBBBA. Under the proposed definition, the alternative amount would apply in the case of any transportation fuel produced at a qualified facility that satisfies the PWA requirements. The base amount would otherwise apply in the case of any transportation fuel produced at a qualified facility that does not satisfy the PWA requirements.

Proposed § 1.45Z–2(a)(4)(iv) would implement the inflation adjustment mechanics for the applicable amount provided under section 45Z(c), including the inflation adjustment factor as provided in section 45Z(c)(2). In Notice 2025–37, the Treasury Department and the IRS published the section 45Z inflation adjustment factor for calendar year 2025. The section 45Z inflation adjustment factor for subsequent calendar years will also be published in the Internal Revenue Bulletin.

B. Timing of Credit

Proposed § 1.45Z–2(b)(1) would clarify that a taxpayer is eligible to claim the section 45Z credit only for the taxable year in which a qualified sale of a transportation fuel occurs, provided the taxpayer meets all other requirements to claim the credit. *See* section 45Z(a)(1)(A)(ii). Proposed § 1.45Z–2(b)(2) would incorporate the effective date in section 13704(c) of the IRA, which provides that section 45Z applies to transportation fuel produced after December 31, 2024.

Proposed § 1.45Z–2(b)(3)(i) would clarify that a transportation fuel may be produced in an earlier taxable year than the taxable year in which the qualified sale of the fuel occurs, but that a qualified sale may not occur before the date the fuel is produced. As a result, if a taxpayer sells transportation fuel before production, the qualified sale would occur on the date of production. Proposed § 1.45Z–2(b)(3)(ii) would provide that a qualified sale occurs at the time of the taxpayer's sale to the unrelated person, or if a related-person sale attribution rule applies, at the time of the related person's sale to the unrelated person.

C. Emissions Factor

Proposed § 1.45Z–2(c)(1) would incorporate the definition of ''emissions factor'' provided under section 45Z(b)(1)(A). Proposed § 1.45Z–2(c)(2) would incorporate the emissions factor rounding rule in section 45Z(b)(2) and provide an example.

D. Emissions Rate

Proposed § 1.45Z–2(d)(1) would incorporate the rules for determining the emissions rate of a transportation fuel in section 45Z(b)(1)(B) and (D). To determine an emissions rate for a fuel, a taxpayer would either use the applicable emissions rate table published by the Secretary or, if the applicable emissions rate table does not establish an emissions rate for the taxpayer's fuel, a PER determined by the Secretary.

Proposed § 1.45Z–2(d)(2) would incorporate section 70521(b) and (c)(1) of the OBBBA, which provide that for transportation fuel produced after December 31, 2025, the emissions rate cannot be less than zero, unless such fuel is derived from animal manure. Section 45Z(b)(1)(B)(v), which was added by section 70521(c)(1) of the OBBBA, provides that, notwithstanding that general rule, the Secretary ''may provide an emissions rate that is less than zero'' for a transportation fuel derived from an animal manure feedstock such as dairy, swine, or poultry manure. Proposed § 1.45Z–2(d)(2) would clarify that the limitation regarding negative emissions rates also applies to any transportation fuel used as a production input. The proposed rule would provide examples illustrating the negative-emissions-rate limitation and the effect of a negative emissions rate on the emissions factor calculation.

Proposed § 1.45Z–2(d)(3) would incorporate the rule in section 45Z(b)(1)(B)(iv), which was added by section 70521(c)(1) of the OBBBA, that excludes emissions attributed to indirect land use changes for transportation fuel produced after December 31, 2025.

As discussed in Part III.E. and III.F. of this Explanation of Provisions, under proposed § 1.45Z–2(e)(2), the applicable emissions rate table would direct a taxpayer to use the allowed methodologies described in section 45Z(b)(1)(B)(ii) and (iii) and set out in proposed § 1.45Z–2(e)(3), and any PER

would be determined pursuant to section 45Z(b)(1)(D) and the procedures in proposed § 1.45Z–2(f).

E. Emissions Rate Table

1. In General

Proposed § 1.45Z–2(e) would incorporate the rules in section 45Z(b)(1)(B) regarding the annual publication of a table of emissions rates for similar types and categories of transportation fuels (emissions rate table), including the requirement in section 45Z(b)(1)(B)(i) that the emissions rate table be published ''[s]ubject to'' the requirements in section 45Z(b)(1)(B)(ii) through (v).

The Treasury Department and the IRS will annually publish an emissions rate table for each calendar year in the Internal Revenue Bulletin. The annual emissions rate table for calendar year 2025 was published in Notice 2025–11.

Proposed § 1.45Z–2(e)(2) would provide rules for identifying the applicable emissions rate table that a taxpayer must use in a given taxable year. Proposed § 1.45Z–2(e)(2)(i) would clarify that the applicable emissions rate table for a taxpayer is the emissions rate table that is in effect on the first day of the taxpayer's taxable year of production. The proposed rule would also clarify that, for production after December 31, 2024, in taxable years beginning before January 1, 2025, the applicable emissions rate table is the emissions rate table effective for 2025.

In response to Notice 2025–10, stakeholders requested the ability to use an emissions rate table tied to the year construction of a facility began, regardless of when the taxpayer actually produces a transportation fuel. If a taxpayer begins constructing a facility in 2025 but such facility does not begin producing fuel until a subsequent calendar year, the stakeholders' requested rule would allow the taxpayer to use the emissions rate table for 2025 to determine the emissions rate of its fuel for all taxable years.

The proposed regulations would not adopt this suggestion. Section 45Z(b)(1)(B)(i) directs the Secretary to annually publish an emissions rate table and requires taxpayers to use such tables. The statute does not contemplate taxpayers locking in the use of old tables in later years. Additionally, the amount of the section 45Z credit depends in part on the emissions rate of the transportation fuel produced in a given taxable year. Accordingly, the emissions rate of a fuel is properly established using the emissions rate table in effect for the taxable year in which such fuel was produced. The beginning of construction date for the facility in which the fuel is produced has no significance with respect to emissions rates and is unrelated to the actual emissions associated with the production of transportation fuel after the facility is placed in service.

Proposed § 1.45Z–2(e)(2)(ii) would clarify that if a taxpayer produces a fuel for which the applicable emissions rate table establishes an emissions rate, the taxpayer must use the corresponding allowed methodologies, as specified in proposed § 1.45Z–2(e)(3), as provided in such table to determine the emissions rate for all such fuel produced during the taxpayer's taxable year.

Proposed § 1.45Z–2(e)(2)(iii)(A) would clarify that the applicable emissions rate table establishes the emissions rate for a fuel if the emissions rate table includes both the type and category of that fuel. Proposed § 1.45Z–2(e)(2)(iii)(B) would clarify that if an emissions rate table does not initially include a type or category of fuel, but an allowed methodology is updated to add such type or category of fuel during the calendar year, then that type or category of fuel is considered included in such emissions rate table.

The proposed regulations would generally require a taxpayer to use the latest annual emissions rate table (as opposed to prior annual tables) and would prevent the use of outdated modeling.

2. Allowed Methodologies

Proposed § 1.45Z–2(e)(3)(i) would provide that a taxpayer producing a fuel for which an emissions rate is established by the applicable emissions rate table must determine the fuel's emissions rate using the allowed methodologies described in proposed § 1.45Z–2(e)(3)(iv) and (v), as directed by the applicable emissions rate table.

Proposed § 1.45Z–2(e)(3)(ii) would require a taxpayer to use the first version of an allowed methodology that is publicly available in the taxable year of production and that includes the type and category of the taxpayer's fuel. However, if an updated version of an allowed methodology becomes publicly available after the first day of the taxable year of production (but still within such taxable year), then the taxpayer could choose to treat such updated version as the most recent version of such methodology. This choice would give a taxpayer the flexibility to choose the version of an allowed methodology to use with respect to taxable years for which an updated version of a methodology may be published during a taxpayer's taxable year of production. This would generally ensure that a taxpayer uses the latest modeling and benefits from favorable updates to a methodology, but would not penalize a taxpayer if a methodology is updated unfavorably during the taxable year.

The proposed regulations would address the requirement in section 45Z(b)(1)(B)(i) that the emissions rate table be published ''[s]ubject to'' the requirements in section 45Z(b)(1)(B)(ii) through (v). Proposed § 1.45Z–2(e)(3)(iv) and (v) would identify the allowed methodologies for determining emissions rates for purposes of the emissions rate table described in section 45Z(b)(1)(B)(i). If the applicable emissions rate table establishes the emissions rate for a non-SAF transportation fuel, a taxpayer producing such fuel would determine the fuel's emissions rate using the 45ZCF–GREET model, as directed by the applicable emissions rate table. If the applicable emissions rate table establishes the emissions rate for a SAF transportation fuel, a taxpayer producing such fuel would determine the fuel's emissions rate using the most recent version of the CORSIA Default Life Cycle Emissions Values for CORSIA Eligible Fuels lifecycle approach (CORSIA Default) or the CORSIA Methodology for Calculating Actual Life Cycle Emissions Values lifecycle approach (CORSIA Actual), with the agreement of the United States, or the 45ZCF–GREET model, as directed by the applicable emissions rate table. The proposed regulations would also clarify that, for a given type and category of SAF transportation fuel, a taxpayer must use the same methodology to calculate lifecycle GHG emissions associated with all stages of fuel feedstock production and distribution.

Section 45Z(b)(1)(B)(i) requires the emissions rate table to be based on the amount of lifecycle GHG emissions (as described in section 211(o)(1)(H) of the CAA–2022) for such fuels. Section 211(o)(1)(H) of the CAA–2022 defines lifecycle GHG emissions as the aggregate emissions from all stages of the fuel's production and use, including feedstock production and transportation, fuel production and distribution, and use of the finished fuel. This type of lifecycle analysis is referred to as ''well-to-wheel'' emissions analysis. As a result, for each type and category of transportation fuel, the 45ZCF–GREET model also uses ''well-to-wheel'' emissions to calculate lifecycle GHG emissions for all stages of fuel production, as well as emissions resulting from use of the fuel in transportation.

Section 70521(c)(1) of the OBBBA provides that for fuel produced after

December 31, 2025, notwithstanding the CAA reference in section 45Z(b)(1)(B)(i), the emissions rate of a transportation fuel shall exclude any emissions attributed to indirect land use change. *See* section 45Z(b)(1)(B)(iv).

3. 45ZCF–GREET Model

a. In General

Section 45Z(b)(1)(B)(ii) provides that in the case of non-SAF transportation fuel, the lifecycle GHG emissions of such fuel must be based on the most recent determinations under the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model developed by the ANL, or a successor model (as determined by the Secretary). The DOE changed the name of the ''Greenhouse gases, Regulated Emissions, and Energy use in Transportation'' model to ''Greenhouse gases, Regulated Emissions, and Energy use in Technologies'' in 2020 and it is now generally referred to as the ''GREET'' model.

The GREET model refers to a suite of models, the first version of which was released in 1995 and is now called the Research & Development Greenhouse gases, Regulated Emissions, and Energy use in Technologies (R&D GREET) model. Since 1995, the DOE maintained the GREET model to enable research regarding lifecycle analyses of hundreds of different methods of producing, delivering, and using energy. The R&D GREET model was not designed to be used for determining emissions rates for tax credits, including the section 45Z credit, but the current suite of GREET models includes different versions, some of which are designed to facilitate particular regulatory regimes.

As of February 4, 2026 the DOE's GREET website lists the following different versions of the GREET model: R&D GREET, 40BSAF–GREET, 45VH2–GREET, 45ZCF–GREET, CA–GREET4.0, and ICAO–GREET. See *https://energy.gov/eere/greet.* For purposes of the section 45Z credit, the phrase ''most recent determinations under the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model'' in section 45Z(b)(1)(B)(ii) is best understood as referring to the most recent determinations under the 45ZCF–GREET model. As discussed in Part III.E.3.b. of this Explanation of provisions, the proposed regulations would also designate the 45ZCF–GREET as a successor model to the GREET model under section 45Z(b)(1)(B)(ii).

Some stakeholders have suggested that the R&D GREET model should be used for the section 45Z credit. However, the 45ZCF–GREET model is the only appropriate GREET model to use for purposes of the section 45Z credit because the R&D GREET model is not limited to transportation fuels and includes information that is based on preliminary analyses (that is, analyses that are not yet complete, have significant technical uncertainties, or are still being reviewed by laboratory staff, the DOE staff, or independent experts). *See generally* GREET, Office of Energy Efficiency & Renewable Energy, DOE, available at *https://www.energy.gov/eere/greet.*

While the R&D GREET model is a valuable tool for characterizing the benefits and impacts of energy technologies in a directional manner and testing new and updated data and parameters, it is designed to provide flexibility in user-defined parameters and methodological choices for a wide variety of research purposes and thus not appropriate for use in policy applications without modifications. Because the R&D GREET model offers users many choices regarding analysis methodology (for example, co-product accounting method and global warming potential values), different users can calculate different emissions rates with respect to the same fuel. Many of these choices would not be appropriate for the specific context of the section 45Z credit given the potentially preliminary nature of much of the information represented in R&D GREET and given that specific representations of activities, and their emissions, are needed in a specific fashion (for example, to comply with the requirements of section 45Z). Given the limitations of some of the data underlying aspects of the R&D GREET model and the fact that the model does not predetermine for the user the methodologies and accounting parameters that are appropriate for compliance with the requirements of section 45Z, R&D GREET does not provide the analytical and methodological specificity necessary to meet the specific objectives or statutory requirements of the section 45Z credit.

ANL developed, and the DOE published, the 45ZCF–GREET model as a specific version of the GREET model to determine emissions rates that also meets three key parameters: (i) user-friendliness and consistency, (ii) technical robustness of the pathways represented, and (iii) consistency with the requirements of section 45Z. The 45ZCF–GREET model and the 45ZCF–GREET User Manual are available at *https://www.energy.gov/eere/greet.* The first version of the 45ZCF–GREET model, released on January 15, 2025, included the most commonly used types and categories of fuel that are anticipated to meet the eligibility requirements to claim the section 45Z credit. The 45ZCF–GREET model and the 45ZCF–GREET User Manual were updated in May 2025; such updates included adding pathways for alternative natural gas from coal mine methane capture and ethanol from U.S. corn wet mills. Additional types and categories of fuel may be added in future versions of the 45ZCF–GREET model.

Implementation of the section 45Z credit requires that data used to calculate emissions rates reflect a given taxpayer's specific operations and that such data be independently verifiable to the extent possible. Use of facility-specific verifiable data ensures that the section 45Z credit is available only to those fuels that meet statutory requirements. For certain parameters, bespoke inputs are unlikely to be easily measured by taxpayers and/or independently verifiable with high fidelity, given the current status of verification mechanisms. Thus, certain parameters in the 45ZCF–GREET model are fixed assumptions, referred to as ''background data,'' that are based on the best available data and may not be changed by users. Alternatively, the ''foreground data'' in the 45ZCF–GREET model are parameters that must be input by the user. The 45ZCF–GREET User Manual contains further details on background and foreground data.

b. 45ZCF–GREET as a Successor Model

The Treasury Department and the IRS recognize that the continued existence of the R&D GREET model and periodic updates to both the 45ZCF–GREET model and the R&D GREET model may create uncertainty about which GREET model to use. To address any potential uncertainty, the proposed regulations would invoke the Secretary's express delegation of authority in section 45Z(b)(1)(B)(ii) to require use of the 45ZCF–GREET model as a successor model.

In drafting the proposed regulations, the Treasury Department and the IRS considered the statutory definition of the term ''lifecycle greenhouse gas emissions'' in section 211(o)(1)(H) of the CAA–2022 and the specific objectives of section 45Z. The Treasury Department and the IRS also consulted with the DOE. Accordingly, the proposed regulations would reflect that the 45ZCF–GREET model is a model specifically developed by the ANL as a derivative of and successor to the R&D GREET model to meet the requirements and objectives of section 45Z.

c. Most Recent Determinations Under GREET

Regardless of any determination by the Secretary of a successor model, the phrase ''most recent determinations under the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model'' in section 45Z(b)(1)(B)(ii) can be understood to refer to determinations under the most recent version of the 45ZCF–GREET model.

As discussed in Part III.E.3.a. of this Explanation of Provisions, the 45ZCF–GREET model is tailored to the administration of the section 45Z credit and includes features that make it easy for taxpayers to use. Use of the most recent version of the 45ZCF–GREET model would also ensure that the pathways and approaches provided for determining ''well-to-wheel'' emissions for various fuel production processes are of sufficient methodological certainty to be appropriate for determining eligibility for a tax credit.

d. SAF Portion of 45ZCF–GREET Model as a Similar Methodology

The proposed regulations would allow taxpayers to use the 45ZCF–GREET model to determine emissions rates for SAF transportation fuel (SAF portion of 45ZCF–GREET model). The SAF portion of the 45ZCF–GREET model is a ''similar methodology'' to CORSIA under section 45Z(b)(1)(B)(iii)(II) because, like the CORSIA fuel lifecycle methodologies, it evaluates the full fuel lifecycle, including all stages of fuel and feedstock production through to the end use of the finished fuel. The DOE worked with the Treasury Department and other Federal agencies to develop the 45ZCF–GREET model, including specifications for and limitations on background and foreground data, to satisfy the statutory requirements of section 45Z. Additionally, in the context of whether the R&D GREET model could be used to determine lifecycle GHG emissions for purposes of section 40B(e)(2),[5] the EPA identified certain necessary components of a lifecycle GHG analysis consistent with section 211(o)(1)(H) of the CAA–2022 that the R&D GREET model lacked. The EPA subsequently determined that the new 40BSAF–GREET 2024 model, created in 2024 for the now-expired SAF credit under section 40B, included the previously identified absent categories of emissions.[6] Similarly, the EPA found that the 45ZCF–GREET model includes the categories of emissions it previously identified as missing from the R&D GREET model, the lack of which made R&D GREET insufficient for calculating lifecycle GHG emissions for purposes of section 211(o)(1)(H) of the CAA–2022.[7]

The 45ZCF–GREET model contains certain necessary components of a lifecycle GHG analysis consistent with section 211(o)(1)(H) of the CAA–2022 as applied for purposes of the section 45Z regulations.[8] The 45ZCF–GREET model is consistent with the requirements of section 45Z(b)(1)(B)(iii). Therefore, emissions rates for SAF transportation fuels calculated using the 45ZCF–GREET model would also be consistent with those requirements as applied for purposes of the section 45Z regulations. *See* section 45Z(b)(1)(B)(i).

e. Other Aspects of 45ZCF–GREET Model

In the 45ZCF–GREET model, for purposes of accounting for emissions associated with hydrogen (as a production input), natural gas alternatives (as a production input or as the transportation fuel produced), electricity, and carbon capture and sequestration, rules similar to the rules under section 45V would apply unless otherwise specified by the 45ZCF–GREET model with respect to technical modeling issues or other technical differences. The proposed regulations would also clarify the similar rule for incrementality with respect to the use of energy attribute certificates in the 45ZCF–GREET model. *See also* § 1.45V–4(d).

In January 2025, the United States Department of Agriculture (USDA) published a beta version of the USDA Feedstock Carbon Intensity Calculator (USDA FD–CIC). The beta version of the USDA FD–CIC is undergoing testing, peer review, and public comment in preparation for the publication of a final version of USDA FD–CIC. Following publication of the final version of USDA FD–CIC, the Treasury Department and the IRS anticipate that a section 45Z-specific version of the Feedstock Carbon Intensity Calculator (FD–CIC) module will be included as an input to the DOE's 45ZCF–GREET model (45ZCF FD–CIC) used for calculating carbon intensity adjustments under section 45Z for feedstocks that are produced using certain agricultural practices. Such practices may include no till, reduced till, cover crops, and nutrient management. 45ZCF FD–CIC may undergo periodic updates, including incorporation of new data and methodologies from other FD–CIC versions (for example, USDA FD–CIC, R&D GREET FD–CIC (R&D FD–CIC)), to incorporate more recent data or new data sources, types of practices, feedstock types, or changes to geographic specificity. The results of the 45ZCF FD–CIC are expected to inform the emissions rates calculated under the 45ZCF–GREET model. The Treasury Department and the IRS anticipate that 45ZCF FD–CIC may be used for fuel produced and sold in 2025 even though 45ZCF FD–CIC likely will be published in 2026.

The Treasury Department and the IRS anticipate that adoption of 45ZCF FD–CIC would entail additional requirements particular to its use, such as agricultural practice implementation, recordkeeping, and verification, which may include rules similar to those provided in the USDA's technical guidelines for crops used as biofuel feedstocks in 7 CFR 2100, subparts D, E, and F. The Treasury Department and the IRS anticipate publishing additional guidance on these requirements in coordination with the publication of 45ZCF FD–CIC.

F. Provisional Emissions Rate (PER)

1. In General

Many stakeholders have expressed the urgent need for guidance to clarify the scope and mechanics of the PER process referenced in section 45Z(b)(1)(D), which provides that if the emissions rate table does not establish an emissions rate for a transportation fuel, a taxpayer producing such fuel may file a petition with the Secretary for determination of the emissions rate with respect to such fuel, known as a ''PER.''

Proposed § 1.45Z–2(f)(1) would establish the procedures a taxpayer must follow to request a PER

[5] As in section 45Z(b)(1)(B)(iii)(II), section 40B(e)(2) requires that a methodology similar to CORSIA must also satisfy the criteria under section 211(o)(1)(H) of the CAA–2022. *See also* Notice 2024–37, 2024–21 I.R.B. 1191.

[6] *See* Letter from Joseph Goffman, Principal Deputy Assistant Administrator for the Office of Air and Radiation, U.S. Environmental Protection Agency, to Lily Batchelder, Assistant Secretary for Tax Policy, U.S. Department of Treasury (December 13, 2023) (EPA December 2023 Letter), *available at https://home.treasury.gov/system/files/136/Final-EPA-letter-to-UST-on-SAF-signed.pdf.*

[7] *See* Letter from Joseph Goffman, Assistant Administrator for the Office of Air and Radiation, U.S. Environmental Protection Agency, to Aviva Aron-Dine, Deputy Assistant Secretary for Tax Policy, U.S. Department of Treasury (January 8, 2025) (EPA January 2025 Letter), *available at https://home.treasury.gov/system/files/136/January-2025-EPA-letter-to-UST-on-45zcf-GREET-signed.pdf.*

[8] The 45ZCF–GREET model includes significant indirect emissions from land use, crop production, and livestock. Due to the OBBBA, indirect emissions from land use, also known as induced or indirect land use change, will be excluded for purposes of transportation fuel produced after December 31, 2025. *See* section 45Z(b)(1)(B)(iv); section 70521(c) of the OBBBA.

determination. The proposed regulations would require a taxpayer to submit an emissions value request (EVR) to the DOE and obtain a calculated emissions value letter (CEVL) from the DOE, prior to filing a PER petition.

2. PER Terminology

Proposed § 1.45Z–1(b) would define terms associated with the PER procedures set out in proposed § 1.45Z–2(f). Proposed § 1.45Z–1(b)(12) would define ''eligible fuel,'' for purposes of the PER procedures in proposed § 1.45Z–2(f) and the associated definitions in proposed § 1.45Z–1(b), as either a type of fuel not included in the applicable emissions rate table, or a type of fuel included in the applicable emissions rate table but whose category is not included in the applicable emissions rate table.

Proposed § 1.45Z–1(b) would also define terms related to requesting an emissions value (EV) from the DOE, which would be a prerequisite to filing a PER petition. Proposed § 1.45Z–1(b)(15) would define the term ''emissions value'' or ''EV'' as the value setting forth the DOE's analytical assessment of the lifecycle GHG emissions associated with the fuel for which the EVR was made. Proposed § 1.45Z–1(b)(17) would define the term ''EV applicant'' as a taxpayer submitting an EVR for an eligible fuel to the DOE. Proposed § 1.45Z–1(b)(6) would define the term ''calculated emissions value letter'' or ''CEVL'' as the letter setting forth the emissions value and DOE control number that the DOE issues to an applicant whose EVR is completed.

3. Threshold Requirements

Proposed § 1.45Z–2(f)(2) would provide that the DOE and the IRS, respectively, will deny any EVR or PER petition for a type and category of fuel included in the applicable emissions rate table. The proposed rule would provide that a taxpayer may only request an emissions value, and subsequently a PER determination, for an eligible fuel. Because the section 45Z credit is computed for a type and category of fuel, the proposed rule would also clarify that the DOE and the IRS, respectively, will deny any EVR or PER petition based on a facility rather than a type or category of fuel.

4. Emissions Value Requests

Proposed § 1.45Z–2(f)(3) would describe the rules for requesting an EV from the DOE for an eligible fuel. Proposed § 1.45Z–2(f)(3)(i) would direct applicants to follow the guidance and procedures that the DOE will separately publish for EVRs, including the section 45Z EVR process instructions (Instructions). Proposed § 1.45Z–2(f)(3)(i) would also describe common assumptions for EVRs, including the well-to-wheel system boundary and certain accounting rules.

Proposed § 1.45Z–2(f)(3)(ii) would describe the information required by the DOE for an EVR. Proposed § 1.45Z–2(f)(3)(ii)(A) would generally require that an EV applicant provide all information required by the DOE's Instructions, including sections of a Class 3 Front-End Engineering and Design (FEED) study (or studies) or other indicator of project maturity, as determined by the DOE, and a completed Section 45Z EVR Form.

Proposed § 1.45Z–2(f)(3)(ii)(B) would provide that for an EVR for an eligible fuel that is a category of hydrogen, an EV applicant must first submit a section 45V Emissions Value Request Application in accordance with the process for a PER determination for the section 45V credit, as described in § 1.45V–4(c). The proposed rule would provide that the EV applicant must submit the letter obtained under the section 45V EVR process from the DOE stating the well-to-gate emissions value that the DOE determined with respect to the facility's hydrogen production pathway and the control number that the DOE assigned to the section 45V EVR Application. Once such applicant completes the section 45V EVR process and submits its EVR for purposes of section 45Z, the DOE may issue a CEVL, which would include an EV that fully accounts for the well-to-wheel emissions of such category of hydrogen.

The proposed rule would also clarify that if the EV applicant produces such category of hydrogen at multiple facilities, such applicant will need to provide this information for each facility. *See* Part IV.B. of this Explanation of Provisions for a discussion of the anti-stacking rules between section 45Z and section 45V.

5. Submitting a PER Petition

Proposed § 1.45Z–2(f)(4) would provide the exclusive procedures for requesting a PER determination. Proposed § 1.45Z–2(f)(4)(i) would clarify that a taxpayer requests a PER determination by filing a PER petition with the Form(s) 7218 included with the taxpayer's timely filed (including extensions) Federal income tax return or Federal information return for the first taxable year for which the taxpayer claims the section 45Z credit for the eligible fuel to which the PER petition relates. Proposed § 1.45Z–2(f)(4)(ii) would describe the required content of a PER petition, which would consist of the CEVL for each eligible fuel for which the section 45Z credit is being claimed for a given taxable year.

6. Determination of a PER

Proposed § 1.45Z–2(f)(5)(i) would provide that a properly filed PER petition is deemed accepted by the IRS, and that the deemed acceptance constitutes the Secretary's determination of the PER. As such, proposed § 1.45Z–2(f)(5)(ii) would clarify that a taxpayer may rely on the EV the DOE provides in a CEVL for purposes of calculating and claiming the section 45Z credit, provided that all information, representations, or other data the taxpayer provided to the DOE in support of the taxpayer's EVR are accurate.

G. Relation Back of Emissions Rates (Including PER)

Proposed § 1.45Z–2(g) would provide that when an emissions rate is first determined for a type and category of fuel, whether established in an applicable emissions rate table or by a PER determination, that emissions rate will relate back to January 1, 2025. The proposed rule would ensure that even if a taxpayer cannot determine the emissions rate for a type and category of fuel at the time of production, either because such type and category of fuel are not established in the applicable emissions rate table or because the Secretary has not determined a PER, such taxpayer may utilize a later-determined emissions rate for such fuel as of the date of production.

IV. Special Rules

Proposed § 1.45Z–4 would provide special rules with respect to the determination of a section 45Z credit. Generally, these rules would address the: (i) required registration at the time of production; (ii) anti-stacking rules; (iii) anti-abuse rules; (iv) attribution of production; (v) lack of ownership requirement; (v) foreign feedstocks and prohibited foreign entities; and (vi) specific recordkeeping and substantiation requirements.

A. Only Registered Production in the United States Taken Into Account

As provided in section 45Z(f)(1), proposed § 1.45Z–4(a) would provide that no section 45Z credit is determined with respect to any transportation fuel unless the taxpayer is registered as a producer of clean fuel (within the meaning of section 4101) at the time of production and the fuel is produced in the United States, which includes any territory of the United States. Proposed

§ 1.4101–1, which would provide the registration rules under section 4101, is further discussed in Part VII. of this Explanation of Provisions.

B. Anti-Stacking Rules

As previously discussed in Part II.G.2. of this Explanation of Provisions, section 45Z(d)(4)(B) disallows a section 45Z credit for fuel produced at a facility for which an anti-stacking credit (as defined in proposed § 1.45Z–1(b)(28)(ii)) is allowed. Proposed § 1.45Z–4(b) would provide anti-stacking rules that would govern the interaction between different credits if a facility both produces transportation fuel under section 45Z and engages in other credit-eligible activity. The proposed rule also includes examples. To the extent permitted by statute, the proposed rule would generally preserve taxpayer choice of which credit to claim—a section 45Z credit or an anti-stacking credit—for a taxpayer engaging in multiple credit-eligible activities at the same facility in a taxable year. For instance, a taxpayer producing hydrogen that qualifies for both a section 45V credit and a section 45Z credit can generally choose which credit to claim.

In addition to general comments on the proposed anti-stacking rules, the Treasury Department and the IRS request specific comments addressing situations in which a facility either has multiple owners or in which a taxpayer does not own the facility, including administrative and compliance issues arising under those scenarios.

Proposed § 1.45Z–4(b)(2) would provide that the determination of whether a facility is a qualified facility is made each taxable year. Therefore, under the proposed rule, a facility may be a qualified facility in one taxable year but not in another taxable year. Additionally, in the case of a taxpayer producing transportation fuel at multiple facilities, the taxpayer would separately determine for each facility whether the fuel was produced at a qualified facility. The proposed rules are consistent with the anti-stacking rules in section 45Z(d)(4)(B), which are tied to the taxable year.

Proposed § 1.45Z–4(b)(3) would provide examples illustrating the application of the anti-stacking rules to section 45Z for each of the anti-stacking credits. One example would address situations in which the person claiming an anti-stacking credit for a facility has a different taxable year than the taxpayer producing transportation fuel at that facility. The examples would also clarify that the anti-stacking rules apply regardless of whether the taxpayer or another person claims an anti-stacking credit with respect to a facility.

C. Anti-Abuse Rules

As indicated in Notice 2025–10, the Treasury Department and the IRS are cognizant of potential abuses of the section 45Z credit, including situations in which a taxpayer produces and sells transportation fuel in a manner that is inconsistent with Congressional intent in enacting section 45Z. The Treasury Department and the IRS are also concerned about other potential abuse, such as circular production, credit churning or wasteful production with no intended use, and abuse of the anti-stacking rules.

Proposed § 1.45Z–4(c) would provide that the rules of section 45Z and the section 45Z regulations must be applied in a manner consistent with the purposes of section 45Z and the section 45Z regulations (and the regulations in under sections 6417 and 6418 related to the section 45Z credit), including incentivizing the domestic production and use of clean transportation fuel and ensuring that taxpayers do not circumvent the feedstock origin and anti-stacking rules. Therefore, the proposed rule would provide that no section 45Z credit is determined if the primary purpose of the production and sale of clean transportation fuel is to obtain the benefit of the section 45Z credit in a manner that is wasteful, such as discarding, disposing of, or destroying the transportation fuel without putting it to a productive use. The proposed rule would further provide that whether the production and sale of transportation fuel is consistent with the purposes of section 45Z and the section 45Z regulations (and the regulations in this chapter under sections 6417 and 6418 related to the section 45Z credit) is based on all facts and circumstances.

Section 45Z(e) delegates authority to the Secretary to issue guidance regarding implementation of section 45Z, including the determination of section 45Z credits. Therefore, the proposed regulations would provide general anti-abuse rules that are consistent with the three prongs of the section 45Z(a)(4) definition of ''sale'' (referred to as a ''qualified sale'' in these proposed regulations) that focus on post-production uses of transportation fuel.

The Treasury Department and the IRS request comments on the need for these or additional section 45Z anti-abuse rules. The Treasury Department and the IRS also request comments on the potentially abusive scenarios that should be covered by any anti-abuse rules.

D. Production Attributable to the Taxpayer and Section 761(a) Elections

Consistent with section 45Z(f)(2), proposed § 1.45Z–4(d) would provide rules for production attributable to the taxpayer. For a facility in which more than one person has an ownership interest (and the arrangement is not classified as a partnership for Federal tax purposes), proposed § 1.45Z–4(d)(1) would provide that production from the facility is allocated among those persons in proportion to their respective ownership interests in the gross sales from the facility. The proposed rule would further provide that each owner's respective allocable share of the section 45Z credit is based on each owner's allocable share of production, determined pursuant to section 45Z and these proposed regulations. Proposed § 1.45Z–4(d)(2) would provide an example of production attributable to the taxpayer. Proposed § 1.45Z–4(d)(3) would address instances in which a facility is owned pursuant to a valid section 761(a) election.

E. Facility Ownership Not Required

Credit eligibility under section 45Z is tied to production of a transportation fuel at a qualified facility and a subsequent qualified sale of the fuel. There is no statutory requirement that the producer of the transportation fuel own the qualified facility. Proposed § 1.45Z–4(e) would address situations in which the producer does not own the qualified facility at which it produces the transportation fuel, to ensure that production is attributed fairly and accurately in those situations.

Proposed § 1.45Z–4(e)(1) would clarify that a taxpayer is not required to own the qualified facility at which it produces transportation fuel for a section 45Z credit to be determined with respect to such fuel. If a taxpayer produces transportation fuel at a qualified facility owned by another person, proposed § 1.45Z–4(e)(2) would attribute that production to the taxpayer unless otherwise specified in the Code or the section 45Z regulations. In the case of a production arrangement under which multiple taxpayers produce transportation fuel at a facility that is not owned by all the taxpayers, production would be allocated among the taxpayers in proportion to their respective interests in the gross sales from that fuel, as determined under the applicable contract or other legal arrangement with respect to the fuel.

F. Foreign Feedstock and Prohibited Foreign Entity Restrictions

Consistent with section 45Z(f)(1)(A)(iii), as added by section 70521(a) of the OBBBA, proposed § 1.45Z–4(f)(1) would provide that transportation fuel that is produced after December 31, 2025, must be exclusively derived from a feedstock that was produced or grown in the United States, Mexico, or Canada.

Consistent with section 45Z(f)(8), as added by section 70521(k) of the OBBBA, proposed § 1.45Z–4(f)(2) would prohibit the determination of a section 45Z credit: (i) for taxable years beginning after July 4, 2025, if the taxpayer is a specified foreign entity; and (ii) for taxable years beginning after July 4, 2027, if the taxpayer is a foreign-influenced entity (other than a foreign-influenced entity that made certain payments to a specified foreign entity). *See* section 7701(a)(51)(B) and (D) for definitions of the terms *specified foreign entity* and *foreign-influenced entity.*

G. Specific Recordkeeping and Substantiation Requirements

In addition to the general recordkeeping requirements under section 6001 and § 1.6001–1, proposed § 1.45Z–4(g) would require a taxpayer claiming the section 45Z credit to maintain records sufficient to establish the taxpayer's eligibility for the section 45Z credit and the amount of the credit claimed. It would also provide two safe harbors: (i) for substantiating emissions rates with respect to non-SAF transportation fuel; and (ii) for substantiating qualified sales of transportation fuel.

The proposed recordkeeping and substantiation requirements are necessary to ensure the accuracy of reported emissions rates and because the amount of the section 45Z credit may depend on certain operational choices, such as use of certain types of feedstocks or fuels, or engaging in certain emissions-reduction practices like carbon capture and sequestration (which may vary from year to year).

1. In General

Proposed § 1.45Z–4(g)(1) would provide that at a minimum, sufficient records include records: (i) establishing that each fuel produced is a transportation fuel; (ii) establishing any relevant information relating to the primary feedstock(s) used to produce each fuel; (iii) establishing that each fuel meets any additional specifications for the type of fuel as described in § 1.45Z–1(b)(24) or (30); (iv) substantiating how the emissions rate for each fuel was determined (including, if applicable, the specific type(s) and category(ies) under the applicable emissions rate table); (v) relating to any fuel testing obtained by the taxpayer; (vi) establishing that each facility used to produce fuel is a qualified facility; (vii) establishing the date each facility was placed in service; (viii) establishing that each fuel was sold in a qualified sale; and (ix) establishing any certification from an unrelated person and substantiating the information contained therein. A taxpayer must also keep all information, including raw data, used for or related to any petition for a PER. If a taxpayer is claiming an increased credit amount by satisfying the PWA requirements, the taxpayer must also maintain the records described in § 1.45Z–3 (referencing § 1.45–12).

Proposed § 1.45Z–4(g)(2) would provide a safe harbor for substantiating the emissions rate for a non-SAF transportation fuel that was determined using the 45ZCF–GREET model. A taxpayer relying on this safe harbor would need to obtain certification in substantially the same form and manner described in proposed § 1.45Z–5 (related to certification for a SAF transportation fuel) with respect to that non-SAF transportation fuel. The proposed § 1.45Z–5 certification requirements are discussed in Part V. of this Explanation of Provisions.

Proposed § 1.45Z–4(g)(3)(i) would provide a safe harbor for substantiating whether the sale of a transportation fuel is a qualified sale for purposes of section 45Z. A taxpayer relying on this safe harbor would need to obtain from the purchaser a certificate prepared by the purchaser under penalty of perjury in substantially the same form and manner as that described in proposed § 1.45Z–4(g)(3)(ii). Proposed § 1.45Z–4(g)(3)(ii) would include a model certificate that a taxpayer may use for purposes of meeting this safe harbor. If the certificate relates to a single purchase, the taxpayer must obtain the certificate from the purchaser prior to or at the time of sale. If the certificate relates to purchases made over a period of time, the taxpayer must obtain the certificate from the purchaser prior to or at the same time as the initial sale to which the certificate relates. The safe harbor would require that a taxpayer have no reason to believe that any information in the certificate regarding the use of the transportation fuel is false. The safe harbor would also require a taxpayer to maintain the certificate with respect to the sale of transportation fuel in its books and records.

Additionally, the Treasury Department and the IRS request comments on what types of documentation or other substantiation a taxpayer should maintain to establish: proper determination of a fuel's emissions rate, including the inputs into CORSIA Default, CORSIA Actual, or the 45ZCF–GREET model; certification from an unrelated person for non-SAF transportation fuel; existing systems, industry standards, or customary practices that may be used to substantiate emissions rate and inputs into CORSIA Default, CORSIA Actual, or the 45ZCF–GREET model (or if there are none, how such tracking and verification systems should be developed, with potential timelines regarding development).

2. Foreign Feedstocks Including Used Cooking Oil

As explained in Notice 2025–10, the Treasury Department and the IRS remain concerned about the ability to reliably distinguish between imported used cooking oil (UCO) and palm oil, and the resulting risk of crediting ineligible fuels. Furthermore, section 45Z(f)(1)(A)(ii) provides that transportation fuel that is produced after December 31, 2025, must be exclusively derived from a feedstock that was produced or grown in the United States, Mexico, or Canada. As previously discussed in Part IV.F. of this Explanation of Provisions, proposed § 1.45Z–4(f)(1) would implement this statutory change.

Consistent with this approach, pathways that use foreign feedstocks (including UCO) for fuel produced after December 31, 2025, will not be available in the 45ZCF–GREET model until the Treasury Department and the IRS publish further guidance. A feedstock is considered a foreign feedstock if it originates from a source (for example, a farm, restaurant, or food processor) and/or is purchased from an aggregator located outside the United States, Canada, or Mexico.

The Treasury Department and the IRS are considering appropriate substantiation and recordkeeping requirements for feedstocks imported from Canada and Mexico (including UCO), and request comments on possible approaches with respect to substantiating that any imported feedstocks meet the statutory sourcing requirement. The Treasury Department and the IRS are also interested in any industry practices to track feedstock source(s) that would mitigate potential taxpayer burden while being administrable for the IRS. For example, whether using specific existing business records, a taxpayer could demonstrate that feedstocks exclusively produced in

Canada or Mexico did not contain other feedstocks or additives that originated outside of Canada or Mexico.

The Treasury Department and the IRS also request comments on purchases from aggregators of UCO and approaches to determine the underlying source(s) of the UCO that are administrable for taxpayers and the IRS. The Treasury Department and the IRS request comments on, for instance, whether there are reliable methods that would indicate the geographic location where seeds originated or crops were grown as a precursor for use as cooking oil, which could be used to determine whether the foreign feedstock limitation in section 45Z(f)(1)(A)(iii) applies.

V. Procedures for Certification of Lifecycle Greenhouse Gas Emissions Rates

Proposed § 1.45Z–5 would provide rules for certification from an unrelated person of emissions rates for SAF transportation fuel (certification). The rules would describe the content, form, and manner of the required certification under section 45Z(f)(1)(A)(i)(II). Proposed § 1.45Z–5(b) through (f) would provide rules relating to the content of the certification. Proposed § 1.45Z–5(g) would describe the requirements for timely certification. Proposed § 1.45Z–5(h) would provide a model certification.

A. Requirements for Certifications

1. In General

In general, proposed § 1.45Z–5(b)(1) would provide that for each taxable year for which a taxpayer claims a section 45Z credit for SAF transportation fuel, the taxpayer must obtain a certification from an unrelated person and include such certification with the taxpayer's Form 7218, which is filed with the taxpayer's Federal income tax return or Federal information return, for each qualified facility at which the taxpayer produces SAF transportation fuel.

Proposed § 1.45Z–5(b)(2) would provide that the certification described in proposed § 1.45Z–5(b)(1) must be prepared by a qualified certifier (as defined in proposed § 1.45Z–5(b)(3)) and signed by the qualified certifier under penalty of perjury. Proposed § 1.45Z–5(b)(2) would further provide that the certification must include information that is in substantially the same form as the model certification provided in proposed § 1.45Z–5(h). Proposed § 1.45Z–5(b)(2)(i) through (vi) would describe the following information that a certification must contain: (i) a statement from the qualified certifier regarding the production of SAF transportation fuel (production statement); (ii) a statement from the qualified certifier regarding conflicts of interest (conflict statement); (iii) information regarding the qualified certifier, including documentation of the qualified certifier's qualifications (qualified certifier statement); (iv) certain general information about the qualified facility at which the SAF transportation fuel production undergoing certification occurred (qualified facility statement); (v) any documentation necessary to substantiate the certification process given the standards and best practices prescribed by the qualified certifier's accrediting body as they apply to the circumstances of the taxpayer and the qualified facility; and (vi) any other information or documentation required by applicable IRS tax forms or form instructions.

2. Production Statement

Proposed § 1.45Z–5(c)(1) would provide that the production statement must state that the qualified certifier performed a certification sufficient for the IRS to determine that any lifecycle GHG emissions data inputs and the operation, during the applicable taxable year, of the qualified facility that produced the SAF transportation fuel for which the section 45Z credit is claimed are accurately reflected in: (i) the number of gallons of SAF transportation fuel produced by the taxpayer that is entered on the Form 7218 with which the certification is included; and (ii) either the data the taxpayer input into the allowed methodology under proposed § 1.45Z–2(e)(3), or the data the taxpayer submitted in its PER petition and that was provided to the DOE in support of the taxpayer's request for the emissions value provided in the PER petition.

Proposed § 1.45Z–5(c)(2) would provide that, if a taxpayer submitted a PER petition, then the production statement must also specify the emissions value received from the DOE that was calculated using the data provided in support of the taxpayer's emissions value request.

Proposed § 1.45Z–5(c)(3) would provide that the production statement must specify the lifecycle GHG emissions rate and the amount of SAF transportation fuel produced by the taxpayer that are entered on the Form 7218 with which the certification is included.

3. Conflict Statement

Proposed § 1.45Z–5(d)(1) would provide that the conflict statement must state that: (i) the qualified certifier has not received a fee based to any extent on the value of any section 45Z credit that has been or is expected to be claimed by the taxpayer, and no arrangement has been made for such fee to be paid at any time in the future; (ii) the qualified certifier has not been a party to any transaction involving the sale of SAF transportation fuel the taxpayer produced or in which the taxpayer purchased primary feedstocks for the production of such SAF transportation fuel; (iii) the qualified certifier is unrelated to the taxpayer and is not an employee of the taxpayer; and (iv) the qualified certifier is not married to anyone who is related to, or an employee of, the taxpayer.

Proposed § 1.45Z–5(d)(2) would provide that if the qualified certifier is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the taxpayer, the statements described in proposed § 1.45Z–5(d)(1) must also be made with respect to the partnership or the person that employs or engages the qualified certifier.

4. Qualified Certifier Statement

Proposed § 1.45Z–5(e) would provide that the qualified certifier statement must include: (i) the qualified certifier's name, address, and certifier identification number; (ii) the qualified certifier's qualifications to conduct the certification, including a description of the certification the qualified certifier received from the accrediting body; (iii) if the qualified certifier is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the taxpayer, the name, address, and certifier identification number of the partnership or the person that employs or engages the qualified certifier; (iv) the signature of the qualified certifier and the date of signature; and (v) a statement that the certification was conducted for Federal tax purposes.

5. Information on Taxpayer's Qualified Facility

Proposed § 1.45Z–5(f) would provide that the certification must include: (i) the location of the qualified facility; (ii) a description of the qualified facility, including its method of producing SAF transportation fuel; (iii) the type(s) of primary feedstock(s) used by the qualified facility to produce the SAF transportation fuel during the taxable

year of production; (iv) the amount(s) of primary feedstock(s) used by the qualified facility to produce the SAF transportation fuel during the taxable year of production; (v) the location(s) from which the qualified facility sourced the primary feedstock(s) used to produce the SAF transportation fuel during the taxable year of production; (vi) a list of the metering devices used to record any data used by the qualified certifier to support the production statement under proposed § 1.45Z–5(c), along with a statement that the qualified certifier has reason to believe that the device(s) underwent industry-appropriate quality assurance and quality control, and the accuracy and calibration of the device has been tested in the year prior to the time of observation; and (vii) confirmation that the emissions rate of the SAF transportation fuel produced during the taxable year of production is accurate to the higher of +/− 5% or 2 kilograms of CO_2e per mmBTU.

B. Qualified Certifier

Proposed § 1.45Z–5(b)(3) would provide rules regarding qualified certifiers for the allowed methodologies. A qualified certifier would be required to have the relevant active accreditation as of the date it provides a certification to a taxpayer.

1. CORSIA Methodologies

Proposed § 1.45Z–5(b)(3)(i) would provide that, for taxpayers using CORSIA Default or CORSIA Actual to determine the emissions rate for SAF transportation fuel, the term *qualified certifier* means any individual or organization that is unrelated to the taxpayer and is not an employee of the taxpayer, and that has an active accreditation from International Sustainability and Carbon Certification, Roundtable on Sustainable Biomaterials, ClassNK, or other sustainability certification scheme approved by ICAO. Such individuals or organizations are experienced and familiar with evaluating information regarding CORSIA Default and CORSIA Actual.

2. 45ZCF–GREET Model

Proposed § 1.45Z–5(b)(3)(ii) would provide that, for taxpayers using the 45ZCF–GREET model to determine the emissions for SAF transportation fuel, the term *qualified certifier* means any individual or organization that is unrelated to the taxpayer and is not an employee of the taxpayer, and that has an active accreditation from: (i) the American National Standards Institute National Accreditation Board (ANAB) to conduct validation and verification in accordance with the requirements of International Organization for Standardization (ISO) 14065; or (ii) as a verifier, lead verifier, or verification body under the California Air Resources Board Low Carbon Fuel Standard (CARB LCFS) program. Such ANAB and CARB LCFS verifiers are experienced with evaluating information similar to the information included in the 45ZCF–GREET model.

C. Timely Certification Required

Proposed § 1.45Z–5(g) would provide that a certification that includes all required information is valid with respect to a particular claim only if it is signed and dated by the qualified certifier no later than: (i) the due date, including extensions, of the Federal income tax return or Federal information return for the taxable year during which the SAF transportation fuel undergoing certification is sold in a qualified sale; or (ii) in the case of a section 45Z credit first claimed for the taxable year on an amended return or administrative adjustment request (AAR), the date on which the amended return or AAR is filed.

VI. Procedures for Filing a Claim for the Clean Fuel Production Credit

Proposed § 1.45Z–6 would describe the time and manner of filing a claim for the section 45Z credit and provide special rules for cases in which the taxpayer claiming the credit is not the registered producer of a transportation fuel. Under the proposed rule, a taxpayer claiming a section 45Z credit would either be the person registered as a producer of a transportation fuel at the time of production, or a person that would be treated as the registrant.

A. Time and Manner of Filing a Claim

In general, proposed § 1.45Z–6(a) would provide that a taxpayer claims the section 45Z credit on a completed Form 7218 included with the taxpayer's timely filed (including extensions) Federal income tax return or Federal information return for the taxable year for which the taxpayer claims the section 45Z credit. Under proposed § 1.45Z–6(a), a taxpayer would need to complete a separate Form 7218 for each qualified facility at which it produces a transportation fuel for which it is claiming a credit.

B. Proper Claimant

Proposed § 1.45Z–6(b)(1) would provide the general rule that only a taxpayer that is registered by the IRS as a producer of transportation fuel at the time of production may claim the section 45Z credit.

Proposed § 1.45Z–6(b)(2)(i) through (iii) would provide special rules for situations in which a person other than a registered producer of transportation fuel may claim the section 45Z credit. These special rules would generally apply to: (i) a taxpayer that owns an entity that is disregarded as an entity separate from its owner, as defined in § 301.7701–2(c)(2)(i) (disregarded entity); (ii) an S corporation (as defined in section 1361(a)(1)) that owns a qualified subchapter S subsidiary (QSub), as defined in section 1361(b)(3)(B); and (iii) an agent for a consolidated group, as defined in § 1.1502–77. The proposed rules are consistent with the section 45Z Fact Sheet FAQs but provide additional specificity and clarity.

Proposed § 1.45Z–6(b)(2)(i) would provide that in the case of a disregarded entity that produces transportation fuel and is registered as a producer of transportation fuel at the time of production, the taxpayer that owns the disregarded entity is treated as the registered producer for purposes of claiming the section 45Z credit.

Proposed § 1.45Z–6(b)(2)(ii) would provide that in the case of a QSub that produces transportation fuel and is registered as a producer of transportation fuel at the time of production, the S corporation that owns the QSub is treated as the registered producer for purposes of claiming the section 45Z credit.

Proposed § 1.45Z–6(b)(2)(iii) would clarify that if a member of a consolidated group is registered as a producer of transportation fuel at the time of production, the agent for such consolidated group is treated as the registered producer for purposes of claiming the section 45Z credit.

VII. Section 4101 Registration

A. Section 4101 Registration Generally

Proposed § 1.4101–1 would provide rules for section 4101 registration for purposes of section 45Z, including rules addressing disregarded entities, QSubs, and members of a consolidated group, and the registration tests for purposes of section 45Z(f)(1)(A)(i)(I). The proposed rules are modeled after the longstanding registration rules in § 48.4101–1 of the Manufacturers and Retailers Excise Tax Regulations that apply for purposes of fuel excise taxes and credits. This registration requirement is distinct from the required pre-filing registration for a taxpayer that intends to make a section 6417 or section 6418 election, as provided by the Credit Transfer Election Regulations and the Elective Payment Election Regulations.

Proposed §§ 1.4101–1(a)(4) and 48.4101–1(a)(8) would provide rules for reregistration. Proposed §§ 1.4101–1(h) and 48.4101(a)(7) would provide rules regarding the effect of a Letter of Registration for purposes of section 45Z and excise tax registrations, respectively.

Proposed § 1.4101–1 would provide rules regarding the approval, denial, revocation, or suspension of registration that are similar to the rules of section 4222(c) and § 48.4222(c)–1. Additionally, many of the requirements of proposed § 1.4101–1 would be similar or identical to the existing provisions of § 48.4101–1 and to proposed § 48.4101–1(a)(7) and (8), which would facilitate consistent tax administration. The Treasury Department and the IRS are aware that many applicants for registration for purposes of the section 45Z credit and other income tax credits must also be registered under section 4101 for excise tax purposes. As a result, many applicants are already familiar with the section 4101 registration process and must maintain other section 4101 registrations (in addition to the registration required under section 45Z(f)(1)(A)(i)(I) and other income tax registrations).

B. Letter of Registration Required

Proposed § 1.4101–1(a)(2) would provide that a person is registered under section 4101 only if the IRS has issued that person a Letter of Registration under the appropriate activity letter and the registration has not been revoked or suspended. This proposed rule is similar to § 48.4101–1(a)(2).

C. Separate Entity Treatment

Proposed § 1.4101–1(a)(3)(i) would provide that each business unit that has, or is required to have, a separate EIN is treated as a separate person for purposes of registration. Proposed § 1.4101–1(a)(3)(ii) would provide that § 301.7701–2(c)(2)(i) (disregarded entity treatment for certain wholly owned entities) does not apply for purposes of registration under proposed § 1.4101–1. Under the proposed rule, a disregarded entity that has, or is required to have, an EIN would be treated as a corporation for purposes of registration. Therefore, under the proposed rule, if such an entity produces transportation fuel, it must be registered as a producer of transportation fuel at the time of production for the owner of the disregarded entity to be eligible to claim the section 45Z credit for such fuel.

Proposed § 1.4101–1(a)(3)(iii) would provide that a QSub is treated as a separate corporation for purposes of registration under proposed § 1.4101–1. As a consequence, each QSub that has an EIN and that produces transportation fuel must be registered as a producer of transportation fuel at the time of production for its S corporation owner to be eligible to claim the section 45Z credit for such fuel. For consistency and clarity, the proposed regulations would also amend the introductory clause of § 1.1361–4(a)(1) (which generally ignores a QSub's separate existence for Federal tax purposes) by adding proposed § 1.4101–1(a)(3)(iii) to the list of exceptions.

The Treasury Department and the IRS understand that many facilities that produce transportation fuel are owned by a disregarded entity. The proposed regulations would provide registration rules that would reflect this practice while also satisfying the statutory requirements. The proposed rules would be similar to and consistent with: (i) § 48.4101–1(a)(4), which provides that every business that has, or is required to have, a separate EIN is treated as a separate person for purposes of excise tax registration under section 4101; (ii) § 301.7701–2(c)(2)(v)(A)(*3*), which provides that § 301.7701–2(c)(2)(i) (concerning certain wholly-owned entities) does not apply for purposes of registration under sections 4101, 4222, and 4412; and (iii) § 1.1361–4(a)(8)(i)(C), which provides that a QSub is treated as a separate corporation for purposes of registration under sections 4101, 4222, and 4412.

The separate entity rules would also align with other related tax provisions, including sections 45V and 45Q (for which anti-stacking provisions apply), and the elective payment and credit transfer election provisions of sections 6417 and 6418, which elections are generally made on a per-facility basis. Although the proposed rules are consistent with the making of a section 6417 or section 6418 election on a facility-by-facility basis, it is important to highlight the difference between these proposed registration rules and the rules for making an election under section 6417 or section 6418.

With respect to sections 6417 and 6418, if a taxpayer is the sole owner (directly or indirectly) of a disregarded entity for Federal income tax purposes and the disregarded entity directly holds the underlying applicable credit property, then the taxpayer (and not the disregarded entity) makes the section 6417 or section 6418 election, including completing the required pre-filing registration as part of making a section 6417 or section 6418 election. *See* §§ 1.6417–2(a)(1)(ii), 1.6417–5, 1.6418–2(a)(3)(i), and 1.6418–4. For example, if a taxpayer has two qualified facilities for purposes of section 45Z that are owned by separate disregarded entities, each disregarded entity (and not the taxpayer) must be registered as a producer of transportation fuel for purposes of the section 45Z credit. However, the taxpayer (and not either disregarded entity) would ultimately make any section 6417 or section 6418 election (including completing the section 6417 or section 6418 pre-filing registration process) with respect to any section 45Z credit determined with respect to each qualified facility.

Additionally, section 45Z(f)(1)(A)(i)(I) requires registration ''under section 4101.'' This language indicates that Congress meant for the existing § 48.4101–1 regulations to apply for purposes of the section 45Z credit, including the separate entity rules of § 48.4101–1(a)(4). The special procedures that apply with respect to a taxpayer that owns a disregarded entity or a QSub that is registered under proposed § 1.4101–1 and claims the section 45Z credit are discussed in Part VI.B. of this Explanation of Provisions.

D. Reregistration

As provided in section 4101(a)(5), proposed §§ 1.4101–1(a)(4)(i) and 48.4101–1(a)(8)(i) would each require a person to reregister if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions). Reregistration would not apply to companies whose stock is regularly traded on an established securities market. These proposed requirements would be consistent with section 4101(a)(5) and (d).

Proposed §§ 1.4101–1(a)(4)(ii) and 48.4101–1(a)(8)(ii) would each require a person to reregister if the person changes its EIN.

Proposed § 1.4101–1(a)(4)(iii) would provide a safe harbor for a person that has been registered by the IRS and must reregister due to a change in ownership or EIN. A person that is approved for reregistration would be eligible to claim a section 45Z credit as of the date the IRS received the application for reregistration, even if, at the time of such person's fuel production, the IRS had not yet approved the reregistration. The Treasury Department and the IRS recognize the urgency for a taxpayer to be issued a Letter of Registration for purposes of the section 45Z credit because, unlike other tax credits requiring section 4101 registration, section 45Z(f)(1)(A)(i)(I) requires that a

taxpayer be registered at the time of production.

E. Definitions

Proposed § 1.4101–1(b)(1) would define an ''applicant'' as a person that has applied for registration under proposed § 1.4101–1(d). The proposed definition is consistent with the definition of ''applicant'' in § 48.4101–1(b)(1).

Proposed § 1.4101–1(b)(2) would define ''Letter of Registration'' as a letter issued by the IRS to approve a registration required under section 4101. Under the proposed definition, a Letter of Registration would include the registrant's registration number and the effective date of the registration.

Proposed § 1.4101–1(b)(3) would define the phrase ''penalized for a wrongful act'' as cases in which a person has: (i) been assessed any penalty under chapter 68 of the Code (or similar provision of the law of any State) for fraudulently failing to file any return or pay any tax, and the penalty has not been wholly abated, refunded, or credited; (ii) been assessed any penalty under chapter 68 of the Code, such penalty has not been wholly abated, refunded, or credited, and the IRS determines that the conduct resulting in the penalty is part of a consistent pattern of failing to deposit, pay, or pay over a substantial amount of tax; (iii) been convicted of a crime under chapter 75 of the Code (or similar provision of the law of any State), or of conspiracy to commit such a crime, and the conviction has not been wholly reversed by a court of competent jurisdiction; (iv) been convicted, under the laws of the United States or any State, of a felony for which an element of the offense is theft, fraud, or the making of false statements, and the conviction has not been wholly reversed by a court of competent jurisdiction; (v) been assessed any tax under section 4103 of the Code and the tax has not been wholly abated, refunded, or credited; or (vi) had its registration under section 4101, section 4222, section 4662, or section 4682 of the Code revoked. This proposed definition is similar to the definition of the phrase ''penalized for a wrongful act'' in § 48.4101–1(b)(4).

Proposed § 1.4101–1(b)(4) would define a ''related person'' for purposes of registration under section 4101 as a person that: (i) directly or indirectly exercises control over an activity of the applicant; (ii) owns, directly or indirectly, five percent or more of the applicant; (iii) is under a duty to assure the payment of a tax for which the applicant is responsible; (iv) is a member, with the applicant, of a group of organizations (as defined in § 1.52–1(b) of this chapter) that would be treated as a group of trades or businesses under common control for purposes of § 1.52–1; or (v) distributed or transferred assets to the applicant in a transaction in which the applicant's basis in the assets is determined by reference to the basis of the assets in the hands of the distributor or transferor. This proposed definition is consistent with the definition of ''related person'' in § 48.4101–1(b)(5).

Proposed § 1.4101–1(b)(5) would define a ''registrant'' as a person who has registered under section 4101 in accordance with proposed § 1.4101–1(f)(3) and whose registration has not been revoked or suspended. This proposed definition is consistent with the definition of ''registrant'' in § 48.4101–1(b)(6).

F. Requirement To Register

Proposed § 1.4101–1(c)(1) would require every person producing a transportation fuel, as defined in proposed § 1.45Z–1(b)(34), to register with the IRS in accordance with proposed § 1.4101–1. The proposed rule incorporates the registration requirement described in section 4101(a)(1), as amended by section 70521(i) of the OBBBA, and is similar to § 48.4101–1(c)(1). The proposed rule is also consistent with section 45Z(f)(1)(A)(i)(I).

Proposed § 1.4101–1(c)(2) would articulate the consequences of failing to register under section 4101 by citing to penalties under sections 6719, 7232, and 7272 of the Code. The proposed rule is similar to § 48.4101–1(c)(3), which was published before the enactment of section 6719 and cites to penalties under sections 7232 and 7272. Section 7232 imposes a criminal penalty for failure to register or reregister as required by section 4101 or for a willful false statement in an application for registration or reregistration. Sections 6719 and 7272 impose civil penalties for failure to register or reregister under section 4101.

G. Application Instructions

Proposed § 1.4101–1(d) would require applicants to apply for section 4101 registration using Form 637, *Application for Registration (For Certain Excise Tax Activities),* or such other form as the IRS may designate, in accordance with the instructions to such form. An applicant would be required to apply for registration under activity letter CN if seeking registration as a producer of non-SAF transportation fuel, and under activity letter CA if seeking registration as a producer of SAF transportation fuel, or under such other activity letter(s) as the IRS may designate. The proposed rule is consistent with §§ 48.4101–1(e) and 48.4222(a)–1(b).

H. Registration Tests

Proposed § 1.4101–1(e)(1) would provide that the IRS will register an applicant only if the applicant meets the activity test of proposed § 1.4101–1(e)(2), the acceptable risk test of proposed § 1.4101–1(e)(3), and the satisfactory tax history test of proposed § 1.4101–1(e)(4), which are collectively called the ''registration tests.'' The registration tests under proposed § 1.4101–1(e) are similar to the registration tests under § 48.4101–1(f).

The proposed registration tests are consistent with sections 4101(c) and 4222(c), because their purposes are to confirm whether an applicant is actually engaging in the activity for which it is requesting to be registered, to prevent an applicant from becoming registered and being able to claim a tax credit if it is not engaged in such an activity, and to ensure that an applicant has satisfied all of its tax obligations under the Code, similar to section 4222(c) and §§ 48.4222(a)–1 and 48.4222(c)–1. These tests are necessary to protect the revenue and to prevent applicants from using their registration to avoid payment of tax (by erroneously claiming an income tax credit).

1. Activity Test

Under proposed § 1.4101–1(e)(2), an applicant would meet the activity test only if the IRS determines that the applicant: (i) is, in the course of its trade or business, regularly engaged in the activity for which it is requesting registration; or (ii) is likely to be (because of such factors as the applicant's business experience, financial standing, or trade connections), in the course of its trade or business, regularly engaged in the activity for which it is requesting registration within 6 months after becoming registered under section 4101. Proposed § 1.4101–1(e)(2) is similar to § 48.4101–1(f)(2).

The purpose of the activity test is to prevent applicants that are not engaged in the activity required for the section 45Z credit from becoming registered under section 4101, which is a prerequisite to claiming the section 45Z credit. For example, if an applicant seeking registration for purposes of the section 45Z credit represents on its application for registration that it is not yet (or likely to be within 6 months) engaged in the activity of producing a

transportation fuel, such applicant would not be approved for registration because it fails the activity test.

2. Acceptable Risk Test

Under proposed § 1.4101–1(e)(3)(i), an applicant would meet the acceptable risk test only if neither the applicant nor a related person (as defined in proposed § 1.4101–1(b)(4)) has been penalized for a wrongful act. Additionally, if an applicant or a related person has been penalized for a wrongful act, the IRS would be able to determine that an applicant meets the acceptable risk test based on consideration of the factors enumerated in proposed § 1.4101–1(e)(3)(ii). The acceptable risk test under proposed § 1.4101–1(e)(3) is similar to the acceptable risk test under § 48.4101–1(f)(3).

The purpose of the acceptable risk test under proposed § 1.4101–1(e)(3) is to ensure that the applicant and persons related to the applicant have met their obligations to pay taxes and file returns under the Code and also have not been convicted of a crime that indicates that the applicant would be dishonest in its representations to the IRS for purposes of protecting the revenue, similar to section 4222(c).

3. Satisfactory Tax History Test

Proposed § 1.4101–1(e)(4)(i) would provide that an applicant meets the satisfactory tax history only if the IRS determines that the applicant has a satisfactory tax history. Proposed § 1.4101–1(e)(4)(ii) would provide that an applicant has a satisfactory tax history only if the IRS determines that the filing, deposit, and payment history for all Federal taxes of the applicant and any related person (as defined in proposed § 1.4101–1(b)(4)) supports the conclusion that the applicant will comply with its obligations under proposed § 1.4101–1. Proposed § 1.4101–1(e)(4) is similar to the adequate security test of § 48.4101–1(f)(4), and the definition of ''satisfactory tax history'' in proposed § 1.4101–1(e)(4)(ii) is similar to the definition in § 48.4101–1(f)(4)(iii).

The purpose of the satisfactory tax history test under proposed § 1.4101–1(e)(4) is to ensure that the applicant and persons related to the applicant have met their obligations to pay taxes and file returns under the Code and also have not been convicted of a crime that indicates that the applicant would be dishonest in its representations to the IRS for purposes of protecting the revenue, similar to section 4222(c).

I. Action on Application by the IRS

Proposed § 1.4101–1(f)(1) would provide that the IRS may investigate the accuracy and completeness of any representations made by an applicant and request any additional relevant information from the applicant. Proposed § 1.4101–1(f)(2) would provide that if the IRS determines that an applicant does not meet all the registration tests described in proposed § 1.4101–1(e), the IRS will notify the applicant, in writing, that its application for registration is denied and state the basis for the denial. Proposed § 1.4101–1(f)(3) would provide that if the IRS determines that an applicant meets all the registration tests described in proposed § 1.4101–1(e), the IRS will register the applicant under section 4101 and issue the applicant a Letter of Registration that includes the effective date of the registration and the appropriate activity letter(s). The proposed rule would also provide that a copy of an application for registration (Form 637) is not a Letter of Registration. Proposed § 1.4101–1(f) is similar to § 48.4101–1(g).

J. Terms and Conditions of Registration

Proposed § 1.4101–1(g)(1) would require each applicant or registrant to: (i) make deposits, file returns, and pay taxes required by the Code and the regulations; (ii) keep records sufficient to show production of a transportation fuel; and (iii) notify the IRS of any change (such as a change in ownership) in the information the registrant submitted in connection with its application for registration or previously submitted under proposed § 1.4101–1(g)(1)(iii), within 10 days after the change occurs. Proposed § 1.4101–1(g)(1) is similar to § 48.4101–1(h)(1).

Proposed § 1.4101–1(g)(2) would provide that an applicant or registrant may not sell, lease, or otherwise allow another person to use its registration (except as otherwise provided in proposed § 1.45Z–6(b)(2)) or make any false statement to the IRS in connection with a submission under section 4101. Proposed § 1.4101–1(g)(2) is similar to § 48.4101–1(h)(2).

Requiring registrants to comply with their tax deposits, payments, and filing burdens under the Code protects the revenue, similar to section 4222(c) and § 48.4222(c)–1. Requiring registrants to notify the IRS of any change in information that the registrant submitted in connection with its application ensures the IRS is aware of relevant changes and can ensure the registrant continues to be eligible to retain its registration.

For example, if a registrant that produces a transportation fuel changes the type of fuel it produces, the registrant should inform the IRS of this change so that the IRS can review the fuel being produced to ensure that the registrant still meets a condition of registration by producing a transportation fuel. Prohibiting a registrant from allowing another person to use its registration and make false statements to the IRS ensures that the IRS can rely upon the information and representations provided by a registrant, and protects the revenue by preventing fraud and abuse of section 4101 registration.

K. Effect of Letter of Registration

Proposed § 1.4101–1(h) and proposed § 48.4101–1(a)(7) would provide that a Letter of Registration is not a determination of liability for tax, eligibility for a tax credit or deduction, or any other tax treatment under the Code. The proposed rules would also provide that a Letter of Registration is not a determination letter, as defined in § 601.201(a)(3) of this chapter.

The proposed rules are consistent with section 4101 and the overall statutory scheme. Section 4101 addresses only registration and not eligibility for underlying tax credits for which registration is required. Additionally, for each tax credit that requires registration under section 4101, registration is one of multiple requirements for credit eligibility. A taxpayer must meet all of the statutory requirements for each credit and cannot rely solely on a Letter of Registration to prove entitlement to such credit because doing so would make the other requirements in the tax credit statutes superfluous. *See, e.g.,* sections 40(b)(6)(E), 40A, 40B, 45Z, and 6426(k). Additionally, in the case of excise tax credits, courts have held that a Letter of Registration indicates only that the registrant is registered under section 4101 and is not a determination that the registrant is entitled to claim such credit. *See Affordable Bio Feedstock, Inc.* v. *United States,* 529 F. Supp. 3d 1298, 1304–07 (M.D. Fla. 2021), *aff'd,* 42 F.4th 1288 (11th Cir. 2022).

L. Adverse Actions by the IRS Against a Registrant

Proposed § 1.4101–1(i)(1) would provide that the IRS will revoke or suspend a registration if the IRS determines at any time that the registrant: (i) does not meet one or more of the registration tests under proposed § 1.4101–1(e) and has not corrected the deficiency within a reasonable period of time after notification by the IRS; (ii)

has used its registration to evade, or attempt to evade, the payment of any tax, or to postpone or in any manner to interfere with the collection of any such tax, or to make a fraudulent claim for a credit or payment; (iii) has aided or abetted another person in evading, or attempting to evade, payment of any tax, or in making a fraudulent claim for a credit or payment; or (iv) has sold, leased, or otherwise allowed another person to use its registration, except as otherwise provided in proposed § 1.45Z–6(b)(2).

Proposed § 1.4101–1(i)(2) would provide that if the IRS determines that a registrant has, at any time, failed to comply with the terms and conditions of registration under proposed § 1.4101–1(g), made a false statement to the IRS in connection with its application for registration (or reregistration) or for retention of registration, or otherwise used its registration in a manner that creates a significant risk of nonpayment or late payment of tax, then the IRS may revoke or suspend the registrant's registration.

Proposed § 1.4101–1(i)(3) would provide that if the IRS revokes or suspends a registration, the IRS will notify the registrant in writing and state the basis for the revocation or suspension and the activity letter(s) to which the revocation or suspension relates. The effective date of the revocation or suspension may not be earlier than the date on which the IRS notifies the registrant.

These proposed rules, which are similar to the rules of § 48.4101–1(i), are necessary because they enable the IRS to revoke or suspend registrations as needed to prevent registrants that violate the rules of section 4101 from using their registration to avoid payment of tax (by erroneously claiming an income tax credit).

VIII. Ownership Clarification for Section 6417 Elective Payment Election and Section 6418 Credit Transfer Election

Both sections 6417(a) and 6418(a) require a credit (applicable credit or eligible credit) to be determined with respect to the taxpayer before an election may be made. The underlying credit provisions confirm whether a taxpayer, to determine a credit, must own the relevant underlying eligible credit property or only conduct the activities giving rise to a credit. Current §§ 1.6417–2(c)(4) and 1.6418–2(d)(1) provide rules on determining the credit with respect to a taxpayer and include that a credit is determined with respect to a taxpayer if the taxpayer owns the underlying eligible credit property and conducts the activities giving rise to the credit, or in the case of section 45X (under which ownership of eligible credit property is not required), is considered (under the regulations under section 45X) the taxpayer with respect to which the section 45X credit is determined.

The preambles to the Elective Payment Election Regulations and the Credit Transfer Election Regulations both explain with respect to §§ 1.6417–2(c)(4) and 1.6418–2(d)(1), respectively, that the only credit for which ownership is not required is the section 45X credit. However, a taxpayer also is not required to own the underlying eligible credit property to determine the section 45Z credit. Section 45Z requires only that a taxpayer produce transportation fuel at a qualified facility and sell the fuel in a qualified sale, without requiring ownership of the qualified facility. *See* section 45Z(a)(1), regarding general credit eligibility, and section 45Z(d)(4), defining ''qualified facility.''

The proposed regulations would amend both §§ 1.6417–2(c)(4) and 1.6418–2(d)(1) to indicate that facility ownership is not required for the section 45Z credit. The proposed amendments would only require a taxpayer to conduct the activities giving rise to the section 45Z credit. It would be consistent with proposed § 1.45Z–4(e)(1), which would state that facility ownership is not required for a section 45Z credit to be determined. The proposed amendments would also clarify that ownership is not required for the section 45(d)(3)(C) credit and include clarifying language to acknowledge contract manufacturing arrangements for the section 45X credit. In addition, the proposed regulations would amend both §§ 1.6417–2(f) and 1.6418–2(g) to provide different applicability dates for the proposed changes. The Treasury Department and the IRS request comments on the ownership language with respect to sections 45Z and 45(d)(3)(C), and whether to add language on contract manufacturing or toll processing arrangements for the section 45Z credit.

IX. Proposed Applicability Dates and Reliance

Proposed §§ 1.45Z–1, 1.45Z–2 (except for paragraph (e)), and 1.45Z–4 through 1.45Z–6, would apply to qualified sales occurring in taxable years ending on or after the date the final regulations are published in the **Federal Register**. Proposed § 1.45Z–2(e) would apply to qualified sales occurring in taxable years ending on or after January 10, 2025. Proposed § 1.4101–1 and proposed § 48.4101–1(a)(7) and (8) would apply to persons producing transportation fuel in taxable years ending on or after the date the final regulations are published in the **Federal Register**. Proposed § 1.6417–2(c)(4) and (f), proposed § 1.6418–2(d)(1) and (g), and the proposed amendment to § 1.1361–4(a)(1) would apply to taxable years ending on or after the date the final regulations are published in the **Federal Register**. Taxpayers may rely on these proposed regulations until final regulations are published in the **Federal Register**, provided taxpayers follow them in their entirety and in a consistent manner.

Special Analyses

I. Regulatory Planning and Review

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, of reducing costs, of harmonizing rules, and of promoting flexibility.

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

A. Need for Regulations

Section 45Z of the Internal Revenue Code provides an income tax credit for the production of clean transportation fuel, which is divided into two broad categories: sustainable aviation fuel (SAF) and non-SAF transportation fuel. The statute directs the Secretary of the Treasury or the Secretary's delegate (Secretary) to issue guidance regarding implementation of section 45Z, including the calculation of emissions rates and the annual publication of an emissions rate table. A taxpayer determines a transportation fuel's emissions rate by either using the annual emissions rate table or obtaining

a provisional emissions rate (PER) determination from the Secretary. The proposed regulations provide procedures for taxpayers to obtain a PER if the emissions rate table does not establish an emissions rate for the type and category of transportation fuel produced. The statute also authorizes the Secretary to issue guidance on taxpayer registration and certification for purposes of the section 45Z credit. The proposed regulations also clarify the meaning of several statutory terms, such as ''gallon equivalent,'' ''suitable for use,'' and ''sold for use in a trade or business.''

Pursuant to section 6(a)(3)(B) of Executive Order 12866, the following qualitative analysis provides further details regarding the anticipated impacts of the proposed regulations. The statute, prior guidance, and proposed regulations are briefly summarized in Part I.B. of this Special Analyses. The economic analysis of these proposed regulations is described in Part I.C. of this Special Analyses. Specifically, Part I.C.1. explains the baseline used for the economic analysis; Part I.C.2. discusses the types of entities affected by the proposed regulations; and Part I.C.3. provides the qualitative assessment of the potential economic effects, including the benefits and costs, of the proposed regulations compared to the baseline.

B. Statute, Prior Guidance, and Proposed Regulations

Section 45Z provides an income tax credit for clean transportation fuel produced domestically after December 31, 2024, and sold by December 31, 2029. Originally enacted in 2022 and extended and modified by Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), the section 45Z credit replaces an assortment of prior fuel incentives. Those incentives consisted of income tax credit, excise tax credit, and excise tax payment provisions for various biofuels and other alternative fuels sold for use as a fuel or used as a fuel, including biodiesel, renewable diesel, compressed natural gas, second generation biofuel, and SAF. Transportation fuel is divided into two broad categories: SAF and non-SAF. Transportation fuel produced after December 31, 2025, must be exclusively derived from a feedstock that was produced or grown in the United States, Mexico, or Canada.

Following the statute, a taxpayer calculates the amount of the section 45Z credit by multiplying the applicable amount per gallon or gallon equivalent with respect to a transportation fuel by the emissions factor for that fuel. If a taxpayer produces the transportation fuel at a qualified facility that satisfies the prevailing wage and apprenticeship (PWA) requirements, the applicable amount is increased. A transportation fuel's emissions factor measures the reduction in a fuel's emissions rate relative to the statutory baseline emission rate, expressed as a fraction of the statutory baseline emission rate. The amount of the section 45Z credit is generally larger as the emissions rate of the transportation fuel approaches zero. Transportation fuel produced after December 31, 2025, cannot have an emissions rate of less than zero unless it is derived from animal manure.

The primary method for determining the emissions rate for non-SAF is the United States Department of Energy's (DOE) 45ZCF–GREET model. Producers of SAF have the option of using the 45ZCF–GREET model, the CORSIA Default methodology, or the CORSIA Actual methodology. Taxpayers can request a PER determination if the annually published emissions rate table does not establish an emissions rate for the type and category of transportation fuel produced. In January 2025, the United States Department of Agriculture (USDA) published a beta version of USDA Feedstock Carbon Intensity Calculator (FD–CIC) for testing, peer review, and public comment in preparation of a final version of USDA FD–CIC. Following publication of the final version of USDA FD–CIC, the Treasury Department anticipates that 45ZCF FD–CIC, a section 45Z-specific version of the FD–CIC module, will be included as an input to the DOE's 45ZCF–GREET model to be used for calculating carbon intensity adjustments under section 45Z for feedstocks that are produced using certain agricultural practices.

The Treasury Department and the IRS have issued several notices providing initial guidance on the section 45Z credit. Notice 2024–49 provided guidance on the section 45Z registration requirements, including the time, form, and manner of registration. Notice 2025–10 announced forthcoming proposed regulations addressing the section 45Z credit. These proposed regulations are the forthcoming proposed regulations announced in Notice 2025–10. Additionally, Notice 2025–11 provided guidance regarding methodologies for determining emissions rates under section 45Z and provided the initial emissions rate table.

The proposed regulations provide definitions and general rules on the section 45Z credit, such as on credit eligibility, credit amount, credit timing, and emissions rates. The statute directs taxpayers to use a gallon equivalent for non-liquid fuels but does not provide a baseline standard. The proposed rules define ''gallon equivalent'' to mean, with respect to any non-liquid fuel, the amount of such fuel that has the energy equivalent of a gallon of gasoline determined at the lower heating value. The higher heating value and lower heating value of a fuel refer to the amount of energy released during combustion, but they differ in how they account for the water produced. The higher heating value assumes that all water produced is condensed back into liquid, while the lower heating value assumes it remains as vapor, thus excluding the heat of vaporization from the total energy.

To qualify for the credit, the fuel must be suitable for use as a fuel in a highway vehicle or aircraft (suitable for use). The proposed regulations define suitable for use to mean that the fuel either has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft or may be blended into a fuel mixture that has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft. The rules clarify that actual use as a fuel in a highway vehicle or aircraft is not required.

In addition to being suitable for use, section 45Z(a)(4) requires a taxpayer to sell transportation fuel to an unrelated person: (i) for use by such person in the production of a fuel mixture; (ii) for use by such person in a trade or business; or (iii) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person. The proposed regulations would explicitly clarify that the term ''sold for use in a trade or business'' includes fuel sold to an unrelated person that subsequently resells the fuel in its trade or business.

The proposed PER process would require a taxpayer to submit an emissions value request (EVR) to the DOE to obtain an emissions value, which the taxpayer would use to file a petition requesting the determination of a PER. The proposed regulations also provide various special rules, including with respect to required registration, anti-stacking, production attribution, facility ownership, foreign feedstock limitation, and recordkeeping. Finally, the proposed regulations provide procedures for certification of emissions rates for SAF transportation fuel, filing procedures for claiming the section 45Z credit, and rules for registration.

C. Economic Analysis

1. Baseline

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

2. Affected Taxpayers

These proposed regulations could affect both domestic corporations and pass-through entities. The IRS Research, Applied Analytics, and Statistics Division estimates that there will be 260 facilities registering to produce transportation fuel. The Treasury Department and the IRS understand that, for many producers, each facility is owned by a disregarded entity. Each disregarded entity and qualified subchapter S subsidiary (QSub) that has an EIN and is a producer of transportation fuel for purposes of section 45Z would need to register as a producer of clean fuel for its owner to be eligible to claim the section 45Z credit. Therefore, the number of approved registrants is expected to exceed the number of facilities and credit claimants, though there is uncertainty in the magnitude.

The DOE estimated that there would be 200 PER applicants per year for section 45Z credits in the June 2024 *Supporting Statement for Lifecycle Greenhouse Gas Emissions Value Analysis: Clean Fuel Production Credit.* However, due to more recent analysis utilizing the actual number of PER requests for the section 45V credit, the estimate has been reduced to 30 PER requests in the first year and declining over time as more pathways are added to the 45ZCF–GREET model.

3. Summary of Economic Effects

The proposed regulations define terms, incorporate and clarify rules, and provide certainty for taxpayers intending to claim the section 45Z credit. In the absence of regulations on the section 45Z credit, taxpayers could take differing positions on eligibility or file claims for credits that do not meet the statutory criteria. Clearly defined terms, rules, and requirements also provide for more efficient tax administration, the preservation of tax revenues, accurate filings, and the harmonization of rules across multiple tax credits.

The Treasury Department and the IRS have not undertaken quantitative estimates of the economic effects of these proposed regulations. The Treasury Department and the IRS do not have readily available data or models to estimate with reasonable precision the effect on the timing and scale of investment behavior that could result from these proposed regulations. In the absence of such quantitative estimates, the Treasury Department and the IRS have undertaken a qualitative analysis of the economic effects of specific provisions of these proposed regulations relative to a no-action baseline.

The proposed regulations incorporate and implement the statutory requirement to publish an emissions rate table by directing the identified allowed methodologies for the established type and categories of fuel to the 45ZCF–GREET and CORSIA Default and Actual models. The emission rate table thus allows taxpayer flexibility by reflecting a given taxpayer's specific operations as inputs to the appropriate model. The initial emissions rate table provided in the Appendix of IRS Notice 2025–11 includes the fuels listed in the table below.

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Fuels & Pathways from Section 45Z Emissions Rate Table		
Type of Fuel	**Category of Fuel**	
	Pathway	**Primary Feedstock**
Ethanol	Fermentation	U.S. corn starch U.S. sorghum grain Brazilian sugarcane (for use as a feedstock for SAF Alcohol-to-Jet (ATJ) only)
	Hydrolysis & Fermantation	U.S. corn stover
Biodiesel	Transesterification	U.S. soybean oil U.S. / Canadian canola oil/rapeseed oil U.S. used cooking oil (UCO) Tallow U.S. distillers corn oil (DCO) U.S. carinata oil (intermediate crop) U.S. camelina oil (intermediate crop) U.S. pennycress oil (intermediate crop)
Renewable Diesel	Hydroprocessed esters and fatty acids (HEFA)	U.S. soybean oil U.S. / Canadian canola oil/rapeseed oil U.S. UCO Tallow U.S. DCO U.S. carinata oil (intermediate crop) U.S. camelina oil (intermediate crop) U.S. pennycress oil (intermediate crop)
	ATJ	Ethanol (from fermantation pathways listed above)
	Gasification & Fischer-Tropsch	U.S. corn stover
Renewable Natural Gas	Anaerobic Digestion and Biogas Upgrading	U.S. wastewater sludge U.S. animcal manures U.S. landfill gas
Propane	HEFA	U.S. soybean oil U.S. / Canadian canola oil/rapeseed oil U.S. UCO Tallow U.S. DCO U.S. carinata oil (intermediate crop) U.S. camelina oil (intermediate crop) U.S. pennycress oil (intermediate crop)
Naphtha	HEFA	U.S. soybean oil U.S. / Canadian canola oil/rapeseed oil U.S. UCO Tallow U.S. DCO U.S. carinata oil (intermediate crop) U.S. camelina oil (intermediate crop) U.S. pennycress oil (intermediate crop)
Hydrogen	Various, as defined in the user manual for the most recent 45VH2-GREET model*	Various, as defined in the user manual for the most recent 45VH2-GREET model*
Sustainable Aviation Fuel (SAF)	HEFA	U.S. soybean oil U.S. / Canadian canola oil/rapeseed oil U.S. UCO Tallow U.S. DCO U.S. carinata oil (intermediate crop) U.S. camelina oil (intermediate crop) U.S. pennycress oil (intermediate crop)
	ATJ	Ethanol (from fermentation pathways above)
	Gasification & Fischer-Tropsch	U.S. corn stover
	Any pathway established in CORSIA Default or CORSIA Actual for a transportation fuel that is SAF and that is not represented above	Any pathway established in CORSIA Default or CORSIA Actual for a transportation fuel that is SAF and that is not represented above

*The 45VH2-GREET model and the 45H2-GREET User Manual are both available at https://www.energy.gov/eere/greet

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The statute directs taxpayers to use a gallon equivalent for non-liquid fuels but does not provide a baseline standard. These proposed regulations define ''gallon equivalent'' to mean, with respect to any non-liquid fuel, the amount of such fuel that has the energy equivalent of a gallon of gasoline, which

refers to the amount of such fuel that has a Btu content of 116,090 (lower heating value). The proposed regulations use gasoline as the baseline fuel for testing gallon equivalency because gasoline is the most common transportation fuel in the United States, and section 45Z is designed to incentivize domestic production of transportation fuels that may serve as alternatives to existing fossil fuels. According to the U.S. Energy Information Administration (EIA), ''in 2023, petroleum products accounted for about 89% of total U.S. transportation sector energy use. Biofuels contributed about 6%, most of which was blended with petroleum fuels (gasoline, diesel fuel, and jet fuel).'' [9] The chart below using data from EIA's Annual Energy Outlook 2025 shows that in 2024, motor gasoline made up almost 59% of the total of petroleum and other fuels used in transportation. Additionally, in the interest of harmonizing rules, the use of a gasoline gallon equivalency is consistent with the gasoline gallon equivalent requirement in section 6426(d)(3), which applies to many of the same types of fuel as section 45Z in the context of a credit that section 45Z replaces.

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Petroleum and Other Fuels Used in Transportation*		
(quadrillion Btu)		
	2024	Share
Propane	0.01	0.0%
Motor Gasoline	16.21	58.9%
Ethanol used in E85	0.00	
Ethanol used in Gasoline Blending	1.16	
Jet Fuel	3.58	13.0%
Diesel fuel for on-road, rail, marine, and military	7.00	25.4%
Residual Fuel Oil	0.55	2.0%
Other Petroleum	0.16	0.6%
Total	27.51	
*Data is from Annual Energy Outlook 2025, Tables 2 and 17.		
https://www.eia.gov/outlooks/aeo/		

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Other definitions of gallon equivalency were considered, including diesel gallon equivalency and ethanol gallon equivalency. These definitions would have the effect of decreasing (diesel) or increasing (ethanol) the amount of the calculated section 45Z credit without changing the characteristics of the fuels eligible for the credits. For example, the diesel gallon equivalent of gasoline is 0.88 gallons, therefore using a diesel gallon equivalent would generally reduce any available credit by 12 percent for non-liquid fuels. Neither of these equivalency definitions would have provided the equivalency of the most common transportation fuel currently in use nor provided the same consistency with the gasoline gallon equivalent requirement in section 6426(d)(3).

Non-liquid fuels comprise a small portion of the transportation fuel market. Renewable natural gas (RNG) accounted for approximately 84 percent of the nearly 64 billion cubic feet of all the natural gas used as transportation fuel in the United States.[10] Natural gas, however, accounted for less than 1% of total transportation fuel use.[11] In addition, much of the supply for RNG is due to clean fuel programs such as the national Renewable Fuel Standard (RFS) so a small change in the credit rate for non-liquid fuels resulting from a different choice for the gallon equivalent for non-liquid fuels is unlikely to have a significant effect on overall transportation fuel supply.

To facilitate implementation of a gallon equivalency standard for non-liquid fuels, these proposed regulations must specify whether the equivalency is based on a lower heating value or a higher heating value of the baseline fuel, as the two types of heating values have different energy contents. The proposed regulations use a lower heating value rather than a higher heating value because it is a better representation of the useful energy provided by transportation fuel. To provide clarity and to ensure consistency across section 45Z claims, the proposed regulations provide the lower heating values of some common non-liquid fuels and an example for determining the number of gallon equivalents using the listed values.

Section 45Z requires a transportation fuel, in part, to be suitable for use as a fuel in a highway vehicle or aircraft but does not define the term ''suitable for use.'' The proposed regulations define ''suitable for use'' to mean: (i) that the fuel has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft, or (ii) may be blended into a fuel mixture that has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft. The proposed regulations further clarify that actual use as a fuel in a highway vehicle or aircraft is not required.

The definition of ''suitable for use'' in these proposed regulations is consistent with a plain reading of the statutory

[9] *See https://www.eia.gov/energyexplained/use-of-energy/transportation.php.*

[10] *See New Renewable Fuel Standard volume targets facilitate renewable natural gas production—U.S. Energy Information Administration (EIA).*

[11] *See Alternative Fuels Data Center: Natural Gas Fuel Basics.*

language. Other options considered include defining ''suitable for use'' to require actual use as a fuel in a highway vehicle or aircraft. Such an interpretation would reduce the amount of fuel eligible for the credit and thus constrain the cost of the section 45Z credit. However, such an interpretation would not be consistent with a plain reading of the statutory language.

In addition to the suitable for use requirement, section 45Z(a)(4) requires a taxpayer to sell transportation fuel to an unrelated person: (i) for use by such person in the production of a fuel mixture; (ii) for use by such person in a trade or business; or (iii) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person. The proposed regulations explicitly clarify that the term ''sold for use in a trade or business'' includes fuel sold to an unrelated person that subsequently resells the fuel in its trade or business. The proposed definition responds to stakeholder concern that more restrictive definitions could prevent all fuel sales for resale, such as those to intermediary dealers or wholesalers, from qualifying for the section 45Z credit.

Stakeholders explained that, in the fuel industry, many producers sell to related or unrelated intermediaries, such as wholesalers or dealers, rather than directly to unrelated final purchasers. This common practice allows efficient distribution and the availability of biofuels across regions of the United States because resellers have the infrastructure, capacity, and expertise to deliver fuel where it is needed that producers do not.[12] The proposed regulatory definition promotes flexibility while maintaining adherence to the statutory language. The proposed regulatory definition reduces the costs to those producers who would need to alter their current distribution practices to take advantage of the tax credit and therefore creates an incentive for more clean fuel production.

In considering the definition of ''sold for use in a trade or business,'' the Treasury Department and the IRS evaluated the potential for double crediting. To address that concern, the draft regulatory text in the Appendix to Notice 2025–10 defined the term ''sold for use in a trade or business'' to mean sold for use as a fuel in a trade or business within the meaning of section 162 of the Code. The draft term did not include a sale for blending or for further processing, including use as a primary feedstock to produce another fuel.

[12] *See https://www.eia.gov/energyexplained/gasoline/where-our-gasoline-comes-from.php.*

After the publication of Notice 2025–10, OBBBA amended section 45Z(d)(5)(A) to exclude from the definition of ''transportation fuel'' any fuel produced from a fuel for which a section 45Z credit is allowable. This revision indicates that a sale for use as a primary feedstock to produce another fuel may qualify as a sale for use in a trade or business under section 45Z(a)(4)(B). The OBBBA amendment thus eliminated the double-crediting potential of transportation fuel used for further processing, including use as a primary feedstock to produce another fuel. As a result, the proposed definition of ''sold for use in a trade or business'' in these proposed regulations responds to stakeholder feedback by removing the phrase ''sold for use as a fuel'' from the definition without the risk of double crediting for transportation fuels.

Many stakeholders have expressed the urgent need for guidance to clarify the scope and mechanics of the PER process. Proposed § 1.45Z–2(f) implements the statutory language regarding the PER process and provide this urgent guidance to taxpayers. The proposed regulations provide clarity to taxpayer requests for a PER determination by delineating the proper forms and how to file them, as well as describing the content required and explaining the manner and effect of a PER determination. In addition, the proposed regulations direct applicants to follow the DOE's published instructions as well as describe common assumptions and the information required by the DOE for an EVR. The proposed regulations also harmonize rules for eligible fuels that are a category of hydrogen by outlining the interaction between the PER processes for the section 45V credit and the section 45Z credit.

The certainty provided by these proposed regulations would foster consistent treatment across credit claimants, allow taxpayers producing eligible transportation fuel to make informed investment decisions, and facilitate commercial market transactions with respect to contracts between suppliers and buyers.

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 such 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 contain reporting, third-party disclosure, and recordkeeping requirements that are necessary to ensure that the taxpayer qualifies for the clean fuel production credit. The collections will be used by the IRS for tax compliance purposes and by taxpayers to ensure the fuel qualifies for the credit.

The proposed regulations describe reporting and recordkeeping that are part of the registration requirements, as detailed in proposed § 1.4101–1(a), (d), (f), and (g). These collections are used to determine whether an applicant meets the requirements to be registered under section 4101, a requirement to qualify for the section 45Z credit. The registration requirements, including the Form 637, are already approved by the OMB under control number 1545–1835 with the PRA procedures under 5 CFR 1320.10. The proposed regulations are not creating or changing these already approved collections.

The collections of information in the proposed regulations describe reporting related to claiming the clean fuel production credit, as detailed in proposed § 1.45Z–6. The burden for these requirements is included with Form 7218 and its instructions. The Form 7218 and its instructions are already approved by OMB under the following control numbers: 1545–0123 for businesses, 1545–0074 for individuals, 1545–0047 for non-profit organizations, and 1545–0092 for trusts and estates with the PRA procedures under 5 CFR 1320.10. The proposed regulations are not creating or changing these already approved collections.

The collections of information in the proposed regulations would include reporting requirements that taxpayers claiming the section 45Z credit for SAF transportation fuel provide a certification from an unrelated person with their Federal income tax return or information return for each taxable year for which they claim the section 45Z credit as required by section 45Z(f)(1)(A)(i)(II) and as detailed in proposed § 1.45Z–5. The proposed regulations would also include a third-party reporting and disclosure requirement that such a certification be prepared and certified by an unrelated person. The certification must contain an attestation regarding the taxpayer's production of SAF transportation fuel, conflicts of interest, the certifier's qualifications, the taxpayer's facility, and documentation necessary to substantiate the certification process. The taxpayer must submit the

certification to the IRS by including it with the Form 7218. The burden for these requirements is already included within the Form 7218 and its instructions. Form 7218 and its instructions are already approved by OMB under the following control numbers: 1545–0123 for businesses, 1545–0074 for individuals, 1545–0047 for tax-exempt organizations, and 1545–0092 for trusts and estates. The proposed regulations are not creating or changing these already approved collections.

The proposed regulations reference the DOE's process for an emissions value applicant (EV applicant) to request an emissions value from the DOE that could then be used to file a petition with the Secretary for a PER determination as detailed in proposed § 1.45Z–2. The petition made to IRS will be performed by including the calculated emissions value letter obtained from the DOE with Form 7218. The burden for the petition to the IRS is already included within the Form 7218 and its instructions. Form 7218 and its instructions are already approved by OMB under the following control numbers: 1545–0123 for businesses, 1545–0074 for individuals, 1545–0047 for tax-exempt organizations, and 1545–0092 for trusts and estates. The proposed regulations would not create or change these already approved collections.

The proposed regulations would describe the collection of information associated with the process for taxpayers to request an EV from the DOE and is reflected in the DOE's PRA submission relating to such process. These proposed regulations would not create or change any of the collection requirements submitted by the DOE to OMB for approval. Approval of the DOE's PRA submission is pending OMB approval. The proposed regulations would not create or change any of the collection requirements being approved by OMB under the DOE OMB Control Number 1910–NEW.

The collections of information in the proposed regulations describe third-party disclosure and recordkeeping requirements that provide safe harbor methods for the substantiation of emissions rates and qualified sales, as detailed in proposed § 1.45Z–4. The certificates described in the proposed regulations may be used to establish, in part, the taxpayer's eligibility for the section 45Z credit and the amount of the credit claimed on the taxpayer's return. The burden associated with these information collections will be included within the following OMB control numbers: 1545–0123 for businesses, 1545–0074 for individuals, 1545–0047 for tax-exempt organizations, and 1545–0092 for trusts and estates with the PRA procedures under 5 CFR 1320.10.

The collections of information in the proposed regulations include recordkeeping requirements related to claiming the section 45Z credit. A taxpayer would use these records to establish its eligibility for the section 45Z credit and the amount of the credit claimed. The recordkeeping requirements would include that taxpayers keep records about emissions rates, production, and sale. These recordkeeping requirements are considered general tax records under § 1.6001–1(e). For PRA purposes, general tax records are already approved by OMB under the following control numbers: 1545–0123 for businesses, 1545–0074 for individuals, 1545–0047 for non-profit organizations, and 1545–0092 for trusts and estates.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposal is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed rule. The Treasury Department and the IRS have not determined whether the proposed rule, when finalized, will likely have a significant economic impact on a substantial number of small entities. This determination requires further study. However, because there is a possibility of significant economic impact on a substantial number of small entities, an IRFA is provided in these proposed regulations. The Treasury Department and the IRS invite comments on both the number of entities affected and the economic impact on small entities.

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

A. Need for and Objectives of the Rule

The proposed regulations would provide needed guidance for taxpayers on eligibility for the section 45Z credit, the amount and timing of the section 45Z credit, the use of the 45ZCF–GREET model and CORSIA methodologies to determine the lifecycle GHG emissions rates of transportation fuel, procedures for petitioning the Secretary for a PER determination, requirements for the certification of emissions rates for SAF transportation fuel, filing procedures for claiming a section 45Z credit, and rules for registration under section 4101 for purposes of section 45Z.

B. Affected Small Entities

The RFA directs agencies to provide a description of, and if feasible, an estimate of, the number of small entities that may be affected by the proposed regulations, if adopted. The Small Business Administration's Office of Advocacy estimates in its 2023 FAQs that 99.9 percent of American businesses meet the definition of a small business. The applicability of these proposed regulations does not depend on the size of the business, as defined by the Small Business Administration. As described more fully in the preamble to this proposed regulation and in this IRFA, sections 45Z, 4101, 6417, and 6418, and these proposed regulations may affect a variety of different businesses across several different industries. Because the potential credit claimants can vary widely and the credit first went into effect in 2025, it is difficult to estimate at this time the compliance costs and quantifiable burdens of these proposed regulations, if any, on small businesses. Although there is uncertainty as to the exact number of small businesses within this group, the current estimated number of taxpayers subject to these proposed regulations is 260 taxpayers of which 35 percent are small.

The Treasury Department and the IRS expect to receive more information on the impact on small businesses through comments on these proposed regulations and again after taxpayers start using the guidance and procedures provided in these proposed regulations to claim the section 45Z credit.

C. Impact of the Rules

The proposed regulations would provide rules for how taxpayers can claim the section 45Z credit. Taxpayers that claim the section 45Z credit would have administrative costs related to reading and understanding the rules as well as recordkeeping and reporting requirements because of the certification and Federal income tax return or information return requirements. The costs would vary across different-sized entities and across the type(s) of

project(s) in which such entities are engaged.

To claim a section 45Z credit, a taxpayer producing a transportation fuel must determine the lifecycle GHG emissions rate(s) for all transportation fuel sold during a taxable year. In general, a taxpayer must use the emissions rate table that is in effect on the first day of the taxable year in which the taxpayer produces a section 45Z clean transportation fuel. If an updated emissions rate table is published during a taxpayer's taxable year of production, then a taxpayer may choose to use the updated emissions rate table. If the transportation fuel, pathway, or primary feedstock used by the taxpayer to produce such transportation fuel is not included in the applicable emissions rate table, the taxpayer must petition the Secretary for a PER. As part of the PER petition process, a taxpayer must apply to the DOE for an emissions value that it then uses to submit a PER petition.

To claim a section 45Z credit for SAF transportation fuel, in addition to determining the lifecycle GHG emissions rate of the fuel, a taxpayer must submit a certification from a qualified certifier attesting to the taxpayer's production of SAF transportation fuel, the amount of SAF transportation fuel sold by the taxpayer, certain general information about the qualified facility at which the SAF transportation fuel being certified was produced, conflicts of interest, the certifier's qualifications, and documentation necessary to substantiate the certification process. Additionally, a taxpayer would need to retain records sufficient to establish compliance with these proposed regulations for as long as may be relevant.

Although the Treasury Department and the IRS do not have sufficient data to determine precisely the likely extent of the increased costs of compliance, the estimated burden of complying with the recordkeeping and reporting requirements are described in Part II. of this Special Analyses regarding the PRA.

D. Alternatives Considered

The Treasury Department and the IRS considered alternatives to approaches taken in the proposed regulations. The proposed regulations were designed to minimize burdens for taxpayers while ensuring that the statutory requirements of section 45Z are met. Many of the compliance burdens in the proposed regulations are statutory requirements, but in an effort to reduce these burdens the Treasury Department and the IRS considered and included safe harbors for substantiation of emissions rates and substantiation of qualified sales to allow greater certainty for taxpayers. Additionally, in providing rules related to the information required to be submitted to claim the section 45Z credit, the Treasury Department and the IRS considered whether the production and sale of SAF transportation fuel could be certified by an unrelated person without requiring the unrelated person to possess certain qualifications or conflict of interest characteristics. Such an option would, however, increase the opportunity for fraud or excessive payments under section 45Z.

Section 45Z(e) authorizes the IRS to issue guidance regarding implementation of the section 45Z credit and the determination of clean fuel production credits under section 45Z. As described in the preamble to these proposed regulations, these proposed rules carry out that Congressional intent, as the certification requirements allow the IRS to verify the taxpayer's entitlement to the section 45Z credit.

Comments are requested on the requirements in the proposed regulations, including specifically whether there are less burdensome alternatives that do not increase the risk of duplication, fraud, or improper payments under section 45Z.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The proposed regulations would not duplicate, overlap, or conflict with any relevant Federal rules. As discussed previously, the proposed regulations would merely provide procedures and definitions to allow taxpayers to claim the section 45Z credit. The Treasury Department and the IRS invite comments on identifying and avoiding overlapping, duplicative, or conflicting requirements.

IV. 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 (updated annually for inflation). These proposed 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.

V. 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. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments regarding the notice of proposed rulemaking that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments 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 with respect to this notice of proposed rulemaking has been scheduled for May 28, 2026, beginning at 10 a.m. ET, in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the public hearing. Persons who wish to present oral comments at the public hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by April 6, 2026. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the public hearing. If no outline of the topics to be discussed at the public hearing is received by April 6, 2026, the public hearing will be cancelled. If the

public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to *publichearings@irs.gov* to have their name(s) added to the building access list. The subject line of the email must contain the regulation number REG–121244–23 and the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG–121244–23.

Individuals who want to testify by telephone at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the public hearing. The subject line of the email must contain the regulation number REG–121244–23 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG–121244–23.

Individuals who want to attend the public hearing in person without testifying must also send an email to *publichearings@irs.gov* to have their name(s) added to the building access list. The subject line of the email must contain the regulation number REG–121244–23 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG–121244–23. Requests to attend the public hearing must be received by 5 p.m. ET on May 26, 2026.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–121244–23 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–121244–23. Requests to attend the public hearing must be received by 5 p.m. ET on May 26, 2026.

Public hearings will be made accessible to people with disabilities. To request special assistance during a public hearing, please contact the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by May 22, 2026.

Statement of Availability of IRS Documents

Guidance 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 authors of these proposed regulations are Jennifer Golden, Danielle Mayfield, Andrew Clark, and Alexander Scott of the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax). However, other personnel from the Treasury Department, the DOE, the EPA, the USDA, the Federal Aviation Administration (FAA), and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 48

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR parts 1 and 48 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries for §§ 1.45Z–1, 1.45Z–2, 1.45Z–4 through 1.45Z–6, 1.1361–4, and 1.4101–1 in numerical order to read in part as follows:

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

* * * * *

Section 1.45Z–1 also issued under 26 U.S.C. 45Z(b), (d), (e), and (f).

Section 1.45Z–2 also issued under 26 U.S.C. 45Z(b) and (e).

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Section 1.45Z–4 also issued under 26 U.S.C. 45Z(e) and (f).

Section 1.45Z–5 also issued under 26 U.S.C. 45Z(e) and (f).

Section 1.45Z–6 also issued under 26 U.S.C. 45Z(e).

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Section 1.1361–4 also issued under 26 U.S.C. 1361(b)(3)(A).

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Section 1.4101–1 also issued under 26 U.S.C. 45Z(e), 4101(a)(1) and (c), and 4222(c).

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■ **Par. 2.** Sections 1.45Z–1 through 1.45Z–2 are added to read as follows:

§ 1.45Z–1 Clean fuel production credit; definitions.

(a) *Overview.* For purposes of section 38 of the Code, the section 45Z clean fuel production credit is determined under section 45Z of the Code and the section 45Z regulations. This section provides an overview and definitions that apply for purposes of section 45Z and the section 45Z regulations. Section 1.45Z–2 provides general rules for determining the amount and timing of the section 45Z credit, including rules on the emissions factor and the emissions rate for transportation fuels. Section 1.45Z–3 provides rules relating to the increased credit amount for satisfying prevailing wage and apprenticeship (PWA) requirements. Section 1.45Z–4 provides rules on required registration (under section 4101 of the Code and § 1.4101–1), anti-stacking, anti-abuse, production attribution, facility ownership, foreign feedstock and prohibited foreign entity restrictions, and recordkeeping and substantiation. Section 1.45Z–5 provides procedures for the certification of emissions rates. Section 1.45Z–6 provides procedures for filing a claim for the section 45Z credit. Section 1.4101–1 provides the rules for registration under section 4101.

(b) *Definitions.* The definitions in this section apply for purposes of section 45Z and the section 45Z regulations.

(1) *45ZCF–GREET model.* The term *45ZCF–GREET model* means the model by that name developed by the Argonne National Laboratory (ANL) and published by the U.S. Department of Energy (DOE) for use in determining the amount of lifecycle greenhouse gas (GHG) emissions for purposes of section 45Z. Additional information about the 45ZCF–GREET model is available at *https://www.energy.gov/eere/greet.*

(2) *Applicable amount.* The term *applicable amount* means the applicable amount as described in section 45Z(a) and § 1.45Z–2(a)(4).

(3) *Applicable material.* The term *applicable material* means, pursuant to section 45Z(d)(5)(B)(i)—

(i) Monoglycerides, diglycerides, and triglycerides;

(ii) Free fatty acids; and

(iii) Fatty acid esters.

(4) *ASTM.* The term *ASTM* means the standards published by ASTM International, formerly known as the American Society for Testing and Materials. Additional information about ASTM International is available at *https://www.astm.org/.*

(5) *Biomass.* The term *biomass* means, pursuant to sections 45Z(d)(5)(B)(ii) and 45K(c)(3), any organic material other than—

(i) Oil and natural gas (or any product thereof); and

(ii) Coal (including lignite) or any product thereof.

(6) *Calculated emissions value letter (CEVL).* The term *calculated emissions value letter* or *CEVL* means the letter issued by the DOE to an emissions value (EV) applicant. A CEVL includes the EV that the DOE determined with respect to the fuel that is the subject of the EV applicant's emissions value request (EVR) and the control number that the DOE assigned to the EV applicant's EVR.

(7) *Claim; Form 7218*—(i) *Claim.* The term *claim* means a completed Form 7218, *Clean Fuel Production Credit,* including all information and documentation that the form instructions and the section 45Z regulations require, that a taxpayer files with its Federal income tax return or Federal information return for the taxable year for which the section 45Z credit is determined. The term includes the making of an election under section 6417 or section 6418 and the regulations thereunder, as applicable, by an applicable entity or eligible taxpayer.

(ii) *Form 7218.* The term *Form 7218* means Form 7218, *Clean Fuel Production Credit,* and any successor form(s). *See* § 601.602 of this chapter.

(8) *CO_2e.* The term *CO_2e* means, with respect to any GHG, the equivalent carbon dioxide (as determined based on relative global warming potential). *See* section 45Z(d)(2).

(9) *Code.* The term *Code* means the Internal Revenue Code.

(10) *CORSIA methodologies*—(i) *In general.* The term *CORSIA methodologies* means the fuel lifecycle methodologies used under Volume IV of Annex 16 to the Chicago Convention, Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), which has been adopted by the International Civil Aviation Organization (ICAO) with the agreement of the United States. *See* section 45Z(b)(1)(B)(iii)(I). Additional information about CORSIA is available at *https://www.icao.int/environmental-protection/CORSIA/Pages/default.aspx* as of February 4, 2026.

(ii) *CORSIA Default; CORSIA Actual.* The term *CORSIA Default* means determinations from fuel pathways approved under the CORSIA Default Life Cycle Emissions Values for CORSIA Eligible Fuels lifecycle approach (CORSIA Default) with the agreement of the United States. The term *CORSIA Actual* means determinations from fuel pathways approved under the CORSIA Methodology for Calculating Actual Life Cycle Emissions Values lifecycle approach (CORSIA Actual) with the agreement of the United States. Additional information about CORSIA Default and CORSIA Actual is available at *https://www.icao.int/environmental-protection/CORSIA/Pages/CORSIA-Eligible-Fuels.aspx.*

(iii) *Agreement of the United States required.* The terms CORSIA methodologies, CORSIA Default, and CORSIA Actual do not include any portion of or any approach within such methodologies to which the United States has not agreed. *See* section 45Z(b)(1)(B)(iii)(I).

(11) *DOE.* The term *DOE* means the United States Department of Energy.

(12) *Eligible fuel*—(i) *In general.* The term *eligible fuel,* for purposes of the provisional emissions rate procedures described in section 45Z(b)(1)(D) and § 1.45Z–2(f) and the associated definitions in this paragraph (b), means a fuel that, for the taxable year during which such fuel is produced, is either—

(A) A type of fuel not included in the applicable emissions rate table (as described in § 1.45Z–2(e)(2)); or

(B) If the type of fuel is included in the applicable emissions rate table, such fuel's category is not included in the applicable emissions rate table.

(ii) *Other requirements.* An eligible fuel must also meet the requirements of section 45Z(d)(5)(A)(i), (iii), and (iv).

(13) *Emissions factor.* The term *emissions factor* means the emissions factor as described in section 45Z(b)(1)(A) and § 1.45Z–2(c)(1).

(14) *Emissions rate.* The term *emissions rate* means the emissions rate for a transportation fuel as described in section 45Z(b)(1)(B) and (D) and § 1.45Z–2(d).

(15) *Emissions value (EV).* The term *emissions value* or *EV* means the value obtained from the DOE setting forth the DOE's analytical assessment of the lifecycle GHG emissions associated with the production of an eligible fuel using a particular primary feedstock and pathway.

(16) *EPA.* The term *EPA* means the United States Environmental Protection Agency.

(17) *EV applicant.* The term *EV applicant* means a taxpayer submitting a request to the DOE for an emissions value for an eligible fuel for purposes of obtaining a provisional emissions rate (PER) determination as provided in section 45Z(b)(1)(D) and § 1.45Z–2(f).

(18) *Facility*—(i) *In general.* For purposes of the definition of *qualified facility* in section 45Z(d)(4) and paragraph (b)(28) of this section, the term *facility* means a single production line that produces a transportation fuel. For this purpose, a single production line includes all components that function interdependently to produce a transportation fuel through a process that results in the lifecycle GHG emissions rate used to determine the credit. Components function interdependently to produce a transportation fuel if the use of each component is dependent upon the use of each of the other components to produce a transportation fuel. A component that functions interdependently with other components to produce a transportation fuel need not be located in the same building as, or within a certain geographic proximity to, the other components. A facility includes carbon capture equipment if such carbon capture equipment contributes to the lifecycle GHG emissions rate of the transportation fuel for which the credit is determined. A single production line includes all steps of the production process from the processing of feedstock through to the transportation fuel that the taxpayer sells in a qualified sale.

(ii) *Certain indirect production and post-production equipment.* The term *facility* does not include—

(A) Equipment that is used to condition, such as equipment used to blend transportation fuel into a fuel mixture, pressurize a fuel for use in transportation, or transport a transportation fuel beyond the point of production; or

(B) Notwithstanding paragraph (b)(18)(iii) of this section, feedstock-related equipment (including production, purification, recovery, transportation, or transmission equipment) or electricity production equipment used to power the transportation fuel production process, including any carbon capture equipment associated with the electricity production process.

(iii) *Multipurpose components.* Components that have a purpose in addition to the production of a transportation fuel may be part of a facility if such components function interdependently with other components to produce a transportation fuel.

(iv) *Examples.* The following examples illustrate the definition of the term *facility.*

(A) *Example 1. Effect of geographic proximity; carbon capture equipment.* Z produces a transportation fuel at a facility that is equipped with carbon capture equipment (as defined in § 1.45Q–2(c)), as distinguished from the carbon capture equipment described in paragraph (b)(18)(ii)(B) of this section. One purpose of the equipment is to capture carbon oxides. Without the

carbon capture equipment, the facility could not produce a fuel that has an emissions rate that would qualify for the section 45Z credit. Because the carbon capture equipment functions interdependently with other components to produce the transportation fuel, the carbon capture equipment is part of the facility under paragraph (b)(18)(i) of this section. The analysis in this example is the same regardless of the geographic distance between the carbon capture equipment and the rest of the components comprising the facility.

(B) *Example 2. Single production line with components functioning interdependently; sustainable aviation fuel (SAF) transportation fuel.* X produces SAF transportation fuel that is a synthetic blending component that meets the requirements of ASTM D7566, Annex A2. X sells the SAF transportation fuel to Y, an unrelated person. Y blends the SAF transportation fuel with kerosene to create a fuel mixture that qualifies as jet fuel under ASTM D7566. X uses equipment and components that function interdependently to produce the SAF transportation fuel that is sold to Y. X's equipment and components constitute a facility for section 45Z purposes. As described in paragraph (b)(18)(ii)(A) of this section, Y's equipment and components used to make a transportation fuel mixture are blending equipment and are not a facility for section 45Z purposes.

(19) *Fuel.* The term *fuel* means any liquid or gaseous substance that can be consumed to supply heat or power. Therefore, for purposes of section 45Z, the term *fuel* does not include electricity.

(20) *Gallon equivalent*—(i) *In general.* For purposes of section 45Z(a)(1)(A), the term *gallon equivalent* means, with respect to any non-liquid fuel, the amount of such fuel that has the energy equivalent of a gallon of gasoline, which refers to the amount of such fuel that has a British thermal unit (Btu) content of 116,090 (lower heating value).

(ii) *Non-liquid fuel.* A fuel is considered non-liquid if it is in a gaseous state at ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit, respectively.

(iii) *Calculation*—(A) *In general.* For any non-liquid fuel, the gallon equivalent of such fuel is equal to that fuel's lower heating value divided by the lower heating value of a gallon of gasoline. Expressed mathematically: Gallon equivalent = lower heating value of the fuel (measured in Btu) ÷ lower heating value of a gallon of gasoline (116,090 Btu).

(B) *Rounding.* The gallon equivalent determined under paragraph (b)(20)(iii)(A) of this section must be rounded to 5 decimal places.

(iv) *Certain lower heating values.* This paragraph (b)(20)(iv) provides the lower heating values of some non-liquid fuels.

(A) The lower heating value of low-GHG compressed conventional or alternative natural gas (CANG) is 20,267 Btu per pound.

(B) The lower heating value of low-GHG dimethyl ether is 12,417 Btu per pound.

(C) The lower heating value of low-GHG hydrogen is 51,585 Btu per pound.

(D) The lower heating value of low-GHG liquefied CANG is 20,908 Btu per pound. For this purpose, low-GHG liquefied CANG is a non-liquid fuel at ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit.

(E) The lower heating value of low-GHG liquefied petroleum gas (LPG) (other than propane from hydroprocessed esters and fatty acids (HEFA)) is 19,873 Btu per pound. For this purpose, low-GHG LPG (other than propane from HEFA) is a non-liquid fuel at ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit.

(F) The lower heating value of low-GHG LPG (propane from HEFA) is 18,568 Btu per pound. For this purpose, low-GHG LPG (propane from HEFA) is a non-liquid fuel at ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit.

(v) *Example.* X produced 100,000 pounds of low-GHG compressed CANG. To determine the number of gallon equivalents of low-GHG compressed CANG that X produced, X must divide the lower heating value of low-GHG compressed CANG (20,267 Btu per pound), by the lower heating value of a gallon of gasoline (116,090 Btu). Rounded to 5 decimal places, on an energy equivalent basis, each pound of low-GHG compressed CANG is equal to 0.17458 gallon equivalents (20,267 Btu per lb. ÷ 116,090 Btu). Thus, X produced 17,458 gallon equivalents (0.17458 gallon equivalents × 100,000 lbs.) of low-GHG compressed CANG.

(21) *Greenhouse gas (GHG).* The term *greenhouse gas,* or *GHG,* has the same meaning given that term under section 211(o)(1)(G) of the Clean Air Act (CAA) (42 U.S.C. 7545(o)(1)(G)), as in effect on August 16, 2022. *See* section 45Z(d)(3).

(22) *Lifecycle GHG emissions.* The term *lifecycle GHG emissions* means the lifecycle GHG emissions as described in section 211(o)(1)(H) of the CAA (42 U.S.C. 7545(o)(1)(H)), as in effect on August 16, 2022. *See* section 45Z(b)(1)(B)(i).

(23) *mmBTU.* The term *mmBTU* means 1,000,000 British thermal units. *See* section 45Z(d)(1).

(24) *Non-SAF transportation fuel*—(i) *In general.* The term *non-SAF transportation fuel* means any transportation fuel that is not a SAF transportation fuel.

(ii) *Low-GHG non-SAF fuels.* This paragraph (b)(24)(ii) provides a non-exclusive list of fuels that are not sustainable aviation fuel (non-SAF fuels) that may qualify as a transportation fuel, as well as descriptions of such fuels. A listed non-SAF fuel that meets the applicable description in this paragraph (b)(24)(ii) must also meet all the other applicable requirements under section 45Z and the section 45Z regulations to qualify as a transportation fuel.

(A) *Low-GHG biodiesel.* The term *low-GHG biodiesel* means the monoalkyl esters of long chain fatty acids that meet the specifications of ASTM D6751 and that have an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(B) *Low-GHG butanol.* The term *low-GHG butanol* means any mixture of n-butyl, sec-butyl, and iso-butyl alcohols that meets the specifications of ASTM D7862 and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(C) *Low-GHG diesel fuel.* The term *low-GHG diesel fuel* means liquid fuel, including renewable diesel, that meets the specifications of ASTM D975 and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(D) *Low-GHG dimethyl ether.* The term *low-GHG dimethyl ether,* which includes renewable dimethyl ether, means a gaseous fuel that meets the specifications of ASTM D7901 and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(E) *Low-GHG ethanol.* The term *low-GHG ethanol* means ethyl alcohol that is a liquid fuel that meets the specifications of ASTM D4806 for denatured fuel ethanol or ASTM D8651 for undenatured fuel ethanol for blending with gasoline and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(F) *Low-GHG gasoline.* The term *low-GHG gasoline,* which includes renewable gasoline, means liquid fuel that meets the specifications of ASTM D4814 and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(G) *Low-GHG hydrogen.* The term *low-GHG hydrogen* means any gaseous or liquid fuel that meets the requirements of the Society of Automotive Engineers

(SAE) J2719 standard and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU. Information about SAE standards is available at *https://www.sae.org/standards.*

(H) *Low-GHG liquefied petroleum gas (LPG).* The term *low-GHG LPG,* which includes low-GHG propane, means liquefied gases that meet the specifications of ASTM D1835 and that have an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(I) *Low-GHG methanol.* The term *low-GHG methanol* means a methyl alcohol that is a liquid fuel that meets the specifications of ASTM D1152 or ASTM D5797 and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(J) *Low-GHG conventional or alternative natural gas (CANG).* The term *low-GHG CANG,* which includes renewable natural gas (RNG), means a pipeline-quality compressed or liquefied gas that is interchangeable with fossil natural gas, requires only minimal processing (for example, further compression or liquefaction), to meet the specifications of ASTM D8080, and that has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU.

(25) *Prevailing wage and apprenticeship requirements (PWA requirements).* The term *prevailing wage and apprenticeship requirements* or *PWA requirements* means the requirements described in section 45Z(f)(6) and (7) and § 1.45Z–3.

(26) *Producer*—(i) *In general.* Except as provided in paragraph (b)(26)(ii) of this section, the term *producer* means the person that engages in the production of a transportation fuel.

(ii) *Alternative natural gas.* With respect to alternative natural gas, including RNG, the term *producer* means the person that processes the untreated sources of alternative natural gas to remove water, carbon dioxide, and other impurities such that it is interchangeable with fossil natural gas.

(iii) *Examples.* The following examples illustrate the definition of the term *producer.*

(A) *Example 1. SAF producer.* X uses vegetable oil to make 10,000 gallons of a synthetic blending component via a HEFA production pathway described in ASTM D7566, Annex A2, that qualifies as a SAF transportation fuel. X sells the synthetic blending component to Y, a blender that makes a 20,000-gallon SAF blend, consisting of 50 percent synthetic blending component and 50 percent petroleum-based kerosene, that meets the requirements of ASTM D7566. X and Y are unrelated. X is the producer of the 10,000 gallons of synthetic blending component that it sold to Y. Y is not the producer of any of the 20,000 gallons of fuel that it blended because blending is not production.

(B) *Example 2. RNG producer.* X collects biogas from an anaerobic digester and processes it into RNG that qualifies as a transportation fuel. X sells 10,000 gallon equivalents of RNG to Y, a RNG wholesaler and distributer. X injects the 10,000 gallon equivalents of RNG into a pipeline. Y removes 10,000 gallon equivalents of CANG from the pipeline, further compresses it, and sells it to a municipality that uses it to fuel compressed natural gas buses. X and Y are unrelated. X is the producer of the 10,000 gallon equivalents of RNG. Y is not the producer because Y merely took a post-production transportation fuel and further compressed it.

(27) *Production*—(i) *In general.* The term *production* (except for purposes of section 45Z(a)(4)(A) and paragraph (b)(29)(i)(A) of this section) means all steps and processes used to make a transportation fuel. Production begins with the processing of primary feedstock(s) and ends with a transportation fuel ready to be sold in a qualified sale. Production must involve substantial processing by the producer to create a transportation fuel. Production does not include instances in which a person engages in minimal processing, such as creating a fuel mixture or, except as provided for CANG in this paragraph (b)(27)(i), otherwise engaging in activities that do not result in a chemical transformation. In the case of CANG, production includes the act of processing the untreated sources of alternative natural gas to remove water, carbon dioxide, and other impurities such that it is interchangeable with fossil natural gas. Production of CANG does not include compressing CANG that is already interchangeable with fossil natural gas to a higher pressure. Production does not include instances in which a person uses a primary feedstock to produce a fuel that meets the same ASTM standard as the primary feedstock. Production must occur in the United States, which includes any territory of the United States.

(ii) *Examples.* The following examples illustrate the definition of the term *production.*

(A) *Example 1. Minimal processing for stabilizing biodiesel; production in the United States.* X, a domestic corporation, imports fatty acid methyl ester (FAME) from Canada that does not meet the ASTM D6751 specifications for biodiesel. After importation into the United States, X adds a stabilizing additive so that the FAME meets the specifications of ASTM D6751. The resulting fuel is ASTM-compliant biodiesel that qualifies as a transportation fuel. X has not produced the ASTM-compliant biodiesel, as X merely engaged in minimal processing by adding an additive to the imported FAME. Further, X did not produce the ASTM-compliant biodiesel in the United States, as X did not engage in substantial processing in the United States. Substantial processing, and thus production, occurred before X imported the FAME into the United States.

(B) *Example 2. Minimal processing for dehydrating hydrous ethanol; production in the United States.* Y, a domestic corporation, imports hydrous ethanol from Mexico into the United States. The hydrous ethanol has excessive water content and does not meet the ASTM D4806 specifications for ethanol. After importation into the United States, Y reduces the water content of the hydrous ethanol. The resulting fuel is ASTM-compliant anhydrous ethanol that qualifies as a transportation fuel. Y has not produced the ASTM-compliant anhydrous ethanol, as Y merely engaged in minimal processing by dehydrating the imported hydrous ethanol. Further, Y did not produce the ASTM-compliant anhydrous ethanol in the United States, as Y did not engage in substantial processing in the United States. Substantial processing, and thus production, occurred before Y imported the hydrous ethanol into the United States.

(C) *Example 3. Minimal processing for blending ethanol and gasoline.* Z, a domestic corporation, buys ethanol that qualifies as a transportation fuel and blends the ethanol with gasoline. Z has not produced a transportation fuel, as Z merely engaged in minimal processing by blending the ethanol with gasoline to create a fuel mixture.

(D) *Example 4. Production and subsequent blending by same person.* Z, a domestic corporation, produces ethanol that qualifies as a transportation fuel and then blends the ethanol with gasoline. Z has engaged in production of a transportation fuel with respect to the ethanol, notwithstanding Z's subsequent blending of the ethanol with gasoline. However, Z's blending, alone, does not constitute production, as Z engaged in minimal processing by blending the ethanol with gasoline to create a fuel mixture.

(28) *Qualified facility*—(i) *In general.* The term *qualified facility* means a facility (as defined in paragraph (b)(18) of this section) used to produce transportation fuel and excludes any

facility for which an anti-stacking credit is allowed under section 38 for the taxable year. *See* section 45Z(d)(4). For more information on the application of the anti-stacking rules, *see* § 1.45Z–4(b).

(ii) *Anti-stacking credit.* The term *anti-stacking credit* means any one of the following credits listed in section 45Z(d)(4)(B):

(A) The credit for production of clean hydrogen under section 45V (section 45V credit).

(B) The credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48 with respect to any specified clean hydrogen production facility for which an election is made under section 48(a)(15) (section 48(a)(15) election).

(C) The credit for carbon oxide sequestration under section 45Q (section 45Q credit).

(29) *Qualified sale*—(i) *In general.* The term *qualified sale* means a sale of transportation fuel in a manner described in section 45Z(a)(4). The term refers to a sale of transportation fuel by the taxpayer to an unrelated person if—

(A) The fuel is sold for use in the production of a fuel mixture by such person;

(B) The fuel is sold for use in a trade or business by such person; or

(C) Such person sells such fuel at retail to another person and places such fuel in the fuel tank of such other person.

(ii) *Sold for use in a trade or business.* The term *sold for use in a trade or business* means sold for use in a trade or business, with *trade or business* having the same meaning as in section 162 of the Code. The term *sold for use in a trade or business* includes fuel sold to an unrelated person that subsequently resells the fuel in its trade or business. The term does not include a sale for blending or a sale to a purchaser that sells the fuel at retail to another person and places the fuel in the fuel tank of such other person.

(iii) *Sale by another member of a consolidated group.* In the case of a corporation that is a member of an affiliated group of corporations filing a consolidated return (that is, a member of a consolidated group (as defined in § 1.1502–1(b) and (h), respectively)), that corporation will be treated as selling fuel to an unrelated person if that fuel is sold to the unrelated person by another member of that consolidated group. *See* section 45Z(f)(3).

(iv) *Sale by related person (other than another member of a consolidated group).* Except in the case of a taxpayer described in paragraph (b)(29)(iii) of this section, and in accordance with section 45Z(f)(3), a taxpayer will be treated as selling fuel to an unrelated person if such fuel is sold to the unrelated person by a related person (within the meaning of section 45Z(f)(3) and paragraph (b)(36) of this section).

(v) *Examples.* The following examples illustrate the definition of the term *qualified sale.*

(A) *Example 1. Qualified sale for use in a trade or business; ethanol to SAF.* X produces ethanol and sells the ethanol to Y, an unrelated person. As part of its trade or business, Y uses the ethanol to produce a synthetic blending component under ASTM D7566, Annex A5 (ATJ–SPK). Y then blends the synthetic blending component with petroleum-based kerosene to make a sustainable aviation fuel mixture. X has made a qualified sale of the ethanol to Y under paragraphs (b)(29)(i)(B) and (b)(29)(ii) of this section because X sold the ethanol for use in Y's trade or business. See paragraphs (b)(34)(iii) and (b)(34)(iv)(B) of this section regarding the application of the definition of transportation fuel to Y's synthetic blending component.

(B) *Example 2. Qualified sale for use in a trade or business; RNG.* X produces RNG that qualifies as a transportation fuel and sells the RNG to Y, an unrelated intermediary wholesaler and distributor. X injects the RNG into a pipeline for resale and distribution by Y. Y's business consists of purchasing RNG from different producers, distributing it through a pipeline, and reselling it to customers who may be dealers, distributors, retailers, or end users of fuel. Y subsequently resells X's RNG as part of Y's business. X has made a qualified sale of the RNG to Y under paragraphs (b)(29)(i)(B) and (b)(29)(ii) of this section because X sold the RNG for use in Y's trade or business.

(C) *Example 3. Qualified sale made through another member of consolidated group.* X, a fuel producer, and Y, an intermediary dealer, are members of an affiliated group of corporations filing a consolidated return. X produces transportation fuel and sells the fuel to Y. Y resells the fuel to Z, an unrelated person. Z then sells the fuel at retail to a customer and places the fuel in the customer's fuel tank. X is treated as selling the fuel to Z under paragraph (b)(29)(iii) of this section. X has made a qualified sale of the fuel to Z under paragraph (b)(29)(i)(C) of this section.

(D) *Example 4. Qualified sale made through related person (other than another member of consolidated group).* Same facts as in paragraph (b)(29)(v)(C) of this section (*Example 3*), except that X and Y are non-corporate entities under common control and would be treated as a single employer under the regulations prescribed under section 52(b) of the Code. X and Y are thus related persons within the meaning of section 45Z(f)(3) and paragraph (b)(36) of this section. X is treated as selling the fuel to Z under paragraph (b)(29)(iv) of this section. X has made a qualified sale of the fuel to Z under paragraph (b)(29)(i)(C) of this section.

(E) *Example 5. Qualified sale by taxpayer that produces and subsequently blends a fuel.* X produces 9,000 gallons of renewable diesel that qualifies as a transportation fuel. After production, X blends the 9,000 gallons of renewable diesel with 1,000 gallons of petroleum-based diesel fuel that does not qualify as a transportation fuel. X sells the resulting 10,000-gallon fuel blend to an unrelated person for use in that person's trade or business. X has made a qualified sale of the 9,000 gallons of renewable diesel, as part of the fuel blend, under paragraphs (b)(29)(i)(B) and (b)(29)(ii) of this section.

(30) *SAF transportation fuel*—(i) *In general.* The term *SAF transportation fuel* means sustainable aviation fuel as defined in section 45Z(a)(3). That term means the non-kerosene portion of any liquid fuel that is a transportation fuel, is sold for use in an aircraft, and:

(A) Meets the requirements of—

(*1*) ASTM D7566; or

(*2*) The Fischer Tropsch (FT) provisions of ASTM D1655, Annex A1; and

(B) Is not derived from palm fatty acid distillates or petroleum.

(ii) *Synthetic blending component.* The term *synthetic blending component* means the SAF portion of a fuel mixture described in ASTM D7566 that meets the specifications of one of the ASTM D7566 Annexes and is not derived from palm fatty acid distillates or petroleum.

(iii) *Sold for use in an aircraft.* A synthetic blending component sold to a person that blends the fuel into a fuel mixture described in ASTM D7566 is sold for use in an aircraft within the meaning of section 45Z(a)(3) and paragraph (b)(30)(i) of this section.

(iv) *FT hydrocarbons.* The term *FT hydrocarbons* means the FT hydrocarbons that are derived from biomass, used to produce jet fuel described in section A1.2.2.2 of ASTM D1655, Annex A1, and not derived from palm fatty acid distillates or petroleum.

(v) *ASTM D7566 Annexes.* The term *ASTM D7566 Annexes* means any of the annexes in ASTM D7566 that provide the specifications for a pathway to create a synthetic blending component

that can be blended with ASTM D1655-compliant kerosene.

(vi) *ASTM D1655, Annex A1.* The term *ASTM D1655, Annex A1* means the FT provisions of ASTM D1655, Annex A1 that are contained in section A1.2.2.2, which provides a pathway for coprocessing up to five percent of FT hydrocarbons with petroleum to make a liquid fuel that qualifies as jet fuel. For purposes of this definition, the term *petroleum* includes any conventionally sourced hydrocarbons permitted under ASTM D1655, Annex A1. Liquid fuel produced in accordance with section A1.2.2.1 of ASTM D1655, Annex A1 does not qualify for the section 45Z credit because section A1.2.2.1 defines a pathway for producing a liquid fuel from coprocessing an applicable material (or materials derived therefrom) with a non-biomass feedstock. *See* section 45Z(d)(5)(A)(iii).

(31) *Secretary; IRS*—(i) *Secretary.* The term *Secretary* means the Secretary of the Treasury or the Secretary's delegate. *See* section 7701(a)(11)(B).

(ii) *IRS.* The term *IRS* means the Internal Revenue Service.

(32) *Section 45Z credit.* The term *section 45Z credit* means the clean fuel production credit determined under section 45Z of the Code and the section 45Z regulations.

(33) *Section 45Z regulations.* The term *section 45Z regulations* means the regulations in this section, §§ 1.45Z–2 through 1.45Z–6, and 1.4101–1.

(34) *Transportation fuel*—(i) *In general.* The term *transportation fuel* means, pursuant to section 45Z(d)(5)(A), a fuel that—

(A) Is suitable for use as a fuel in a highway vehicle or aircraft;

(B) Has an emissions rate that is not greater than 50 kilograms of CO_2e per mmBTU;

(C) Is not derived from coprocessing an applicable material (or materials derived from an applicable material) with a feedstock that is not biomass; and

(D) Is not produced from a fuel for which a section 45Z credit is allowable.

(ii) *Suitable for use as a fuel in a highway vehicle or aircraft (suitable for use)*—

(A) *In general.* A fuel is *suitable for use as a fuel in a highway vehicle or aircraft (suitable for use)* if the fuel has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft, or may be blended into a fuel mixture that has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft. A fuel may possess this practical and commercial fitness even though use in a highway vehicle or aircraft is not the fuel's predominant use. However, a fuel does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in a highway vehicle or aircraft. A fuel is suitable for use at the point at which no further production, refinement, or other step is necessary before the fuel may be sold in a qualified sale, except, as specified in paragraph (b)(34)(ii)(B) of this section, for CANG. To be considered suitable for use, a fuel need not actually be used as a fuel in a highway vehicle or aircraft.

(B) *CANG.* CANG is suitable for use once it is produced so that it is interchangeable with fossil natural gas and would require only minimal processing (for example, further compression or liquefaction) to meet the specifications of ASTM D8080.

(C) *Fuels not requiring further processing.* A fuel that does not require further processing and that may be blended with or used as a component of taxable fuel (within the meaning of section 4083 of the Code) is suitable for use.

(iii) *Produced from a fuel for which a section 45Z credit is allowable.* A fuel is *produced from a fuel for which a section 45Z credit is allowable* if a primary feedstock of the fuel meets the definition of a transportation fuel under paragraph (b)(34)(i) of this section, without regard to paragraph (b)(34)(i)(D) of this section.

(iv) *Examples.* The following examples illustrate the definition of the term *transportation fuel.*

(A) *Example 1. Suitable for use.* X produces diesel fuel that has practical and commercial fitness for use as a fuel in a highway vehicle or aircraft. The diesel fuel meets the description of low-GHG diesel fuel in paragraph (b)(24)(ii)(C) of this section, and no further production, refinement, or other step is necessary before the fuel may be sold in a qualified sale. X sells the diesel fuel to a purchaser that uses it as marine diesel fuel. X's diesel fuel satisfies the suitable for use standard under paragraph (b)(34)(ii) of this section, notwithstanding that the diesel fuel ultimately is not used in a highway vehicle or aircraft.

(B) *Example 2. Produced from a fuel for which a section 45Z credit is allowable.* Y buys ethanol and uses it as a primary feedstock to produce a synthetic blending component under ASTM D7566, Annex A5 (ATJ–SPK). The ethanol meets the definition of a transportation fuel under paragraph (b)(34)(i) of this section. Under paragraph (b)(34)(iii) of this section, Y has produced the synthetic blending component from a fuel for which a section 45Z credit is allowable. Y's synthetic blending component is not a transportation fuel for purposes of section 45Z.

(35) *Types and categories of transportation fuel.* As used in section 45Z(b)(1)(B)(i), the term *type of transportation fuel* refers to a particular kind of transportation fuel. For example, ethanol is one type of transportation fuel. As used in section 45Z(b)(1)(B)(i), the term *category of transportation fuel* means the unique primary feedstock and pathway (also known as production process) used to produce a type of transportation fuel. For example, fermentation of U.S. corn starch is one category of ethanol.

(36) *Unrelated person.* The term *unrelated person* means a person not related to the taxpayer. The term has the same meaning as the term *unrelated party* for purposes of the certification required by section 45Z(f)(1)(A)(i)(II)(aa). Persons are treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b) of the Code. *See* section 45Z(f)(3).

(c) *Applicability date.* This section applies to qualified sales occurring in taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

§ 1.45Z–2 General rules.

(a) *Amount of credit*—(1) *In general.* For purposes of section 38, the section 45Z credit for any taxable year, with respect to a given transportation fuel, is an amount equal to the product of—

(i) The applicable amount for such fuel;

(ii) The total gallons or gallon equivalents of such fuel that were—

(A) Produced by the taxpayer at a qualified facility; and

(B) Sold by the taxpayer in a qualified sale during the taxable year; and

(iii) The emissions factor for such fuel.

(2) *Determination of whether fuel is liquid or non-liquid; measurement.* Whether a fuel is liquid or non-liquid is determined according to § 1.45Z–1(b)(20)(ii). The volume of a liquid fuel is measured on the basis of gallons adjusted to ambient pressure and temperature of 1 atmosphere and 60 degrees Fahrenheit. The gallon equivalent of a non-liquid fuel is calculated according to § 1.45Z–1(b)(20)(iii).

(3) *Calculation rules*—(i) *Rounding.* If the amount of any section 45Z credit, as calculated under paragraph (a)(1) of this section, is not a multiple of one cent, a taxpayer must round such amount to the nearest cent. A taxpayer must round up any amount ending in 0.5 cents or more

and round down any amount ending in less than 0.5 cents.

(ii) *Pro rata allocation required for sales of transportation fuel in common storage*—(A) *In general.* If a taxpayer sells transportation fuel that is held in common storage with other fuels that have different emissions rates, the taxpayer is treated as selling a pro rata portion of each fuel produced after December 31, 2024, and held in such common storage. As described in § 1.45Z–1(b)(27), the blending of fuels while such fuels are held in common storage does not constitute production of a transportation fuel with a distinct emissions rate.

(B) *Example.* In 2025, X produces 1,000,000 gallons of ethanol at three different facilities: 200,000 gallons, or 20%, at Facility 1; 250,000 gallons, or 25%, at Facility 2; and 550,000 gallons, or 55%, at Facility 3. The ethanol produced at Facility 1 has an emissions factor of 0.5. The ethanol produced at Facility 2 has an emissions factor of 0.1. The ethanol produced at Facility 3 is not a transportation fuel and no section 45Z credit may be determined with respect to it. X places 1,000,000 gallons of ethanol in common storage tanks. In 2025, X sells 600,000 gallons of ethanol from the common storage tanks in qualified sales. Of the 600,000 gallons sold, 120,000 gallons (20%) are allocated to Facility 1, 150,000 gallons (25%) are allocated to Facility 2, and 330,000 gallons (55%) are allocated to Facility 3. X otherwise satisfies the requirements of the section 45Z credit, and Facility 1 and 2 satisfy the prevailing wage and apprenticeship (PWA) requirements. Therefore, X's section 45Z credit amount is calculated as follows: ($1.06 × 120,000 × 0.5) + ($1.06 × 150,000 × 0.1) = ($127,200 × 0.5) + ($159,000 × 0.1) = $63,600 + $15,900 = $79,500. The result does not change if ethanol produced before January 1, 2025, was also in the common storage tanks.

(4) *Applicable amount*—(i) *In general.* The applicable amount is either the base amount for transportation fuel produced at a qualified facility that does not satisfy the PWA requirements, or the alternative amount for transportation fuel produced at a qualified facility that satisfies the PWA requirements. The applicable amount is subject to inflation adjustment for calendar years beginning after 2024, as described in paragraph (a)(4)(iv) of this section.

(ii) *Base amount.* The base amount is either—

(A) For transportation fuel produced on or before December 31, 2025, 20 cents for transportation fuel which is not sustainable aviation fuel (non-SAF transportation fuel) and 35 cents for SAF transportation fuel; or

(B) For transportation fuel produced after December 31, 2025, 20 cents.

(iii) *Alternative amount.* The alternative amount is either—

(A) For transportation fuel produced on or before December 31, 2025, $1.00 for non-SAF transportation fuel and $1.75 for SAF transportation fuel; or

(B) For transportation fuel produced after December 31, 2025, $1.00.

(iv) *Inflation adjustment*—(A) *In general.* For calendar years beginning after 2024, the applicable amount for any transportation fuel is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the qualified sale of the transportation fuel occurs. If any inflation adjusted amount is not a multiple of one cent, such amount will be rounded to the nearest multiple of one cent. *See* section 45Z(c)(1). A taxpayer must round up any amount ending in 0.5 cents or higher and round down any amount ending in less than 0.5 cents.

(B) *Inflation adjustment factor.* The term *inflation adjustment factor* means the inflation adjustment factor determined and published by the Secretary of the Treasury or the Secretary's delegate (Secretary) pursuant to section 45Y(c) of the Code, determined by substituting ''calendar year 2022'' for ''calendar year 1992'' in section 45Y(c)(3). *See* section 45Z(c)(2). Accordingly, the inflation adjustment factor is, with respect to a calendar year, a fraction whose numerator is the gross domestic product (GDP) implicit price deflator for the preceding calendar year and whose denominator is the GDP implicit price deflator for the calendar year 2022. The term *GDP implicit price deflator* means the most recent revision of the implicit price deflator for the GDP as computed and published by the Department of Commerce before March 15 of the calendar year. *See* section 45Y(c)(3).

(C) *Publication of inflation adjustment factor.* The Secretary will publish guidance in the Internal Revenue Bulletin (*see* § 601.601 of this chapter) no more frequently than annually that will provide the inflation adjustment factor.

(b) *Timing of credit*—(1) *In general.* A taxpayer is eligible to claim the section 45Z credit only for the taxable year in which the qualified sale of a transportation fuel occurs, provided the taxpayer meets all other requirements to claim the credit.

(2) *Credit not allowed for production before January 1, 2025.* The section 45Z credit is not allowed for transportation fuel produced before January 1, 2025.

(3) *Qualified sale timing*—(i) *Production.* Production of a transportation fuel may take place in an earlier taxable year than the taxable year in which the qualified sale of such fuel occurs. However, a qualified sale cannot take place before the date the fuel is produced.

(ii) *Sale to unrelated person.* A qualified sale occurs at the time of the sale to the unrelated person. If a taxpayer is treated as selling transportation fuel to an unrelated person under § 1.45Z–1(b)(29)(iii) or (iv) (involving sales by related persons), the qualified sale occurs at the time the related person sells the fuel to an unrelated person.

(iii) *Example of qualified sale timing for member of consolidated group.* X, a fuel producer, and Y, an intermediary dealer, are members of an affiliated group of corporations filing a consolidated return. The affiliated group, including X and Y, uses the calendar year as its taxable year. In 2025, X produces transportation fuel and sells the fuel to Y. In 2026, Y resells the fuel to Z, an unrelated person. Z then sells the fuel at retail to a customer and places the fuel in the customer's fuel tank. For purposes of section 45Z, X is treated as selling the fuel to Z under § 1.45Z–1(b)(29)(iii) and has made a qualified sale. X's qualified sale to Z occurs in 2026 when Y sells the fuel to Z. Thus, X may only claim a section 45Z credit for that fuel for the 2026 taxable year (assuming all other requirements for the section 45Z credit are met).

(c) *Emissions factor*—(1) *In general.* Under section 45Z(b)(1)(A), the emissions factor of a transportation fuel is an amount equal to the quotient of—

(i) An amount equal to—

(A) 50 kilograms (kg) of equivalent carbon dioxide (CO_2e) per 1,000,000 British thermal units (mmBTU); minus

(B) The emissions rate for such fuel; divided by—

(ii) 50 kg of CO_2e per mmBTU.

(2) *Rounding*—(i) *In general.* If the emissions factor of a transportation fuel is not a multiple of 0.1, a taxpayer must round such amount to the nearest multiple of 0.1. A taxpayer must round up if the digit in the hundredths place is a 5 or higher, and round down if the digit in the hundredths place is less than 5.

(ii) *Example.* Y produces a transportation fuel with an emissions rate of 21.25 kg of CO_2e per mmBTU. The emissions factor of Y's fuel is initially calculated as follows: $(50 - 21.25) \div 50 = 0.575$. 0.575 is not a multiple of 0.1, so Y must round the

emissions factor to the nearest multiple of 0.1. Thus, the emissions factor of Y's fuel is 0.6. If instead the emissions rate of Y's fuel were 23 kg of CO_2e per mmBTU, resulting in an initial calculation of the emissions factor as 0.54, Y must round the emissions factor down to 0.5.

(d) *Emissions rate*—(1) *In general.* The emissions rate for a transportation fuel is such fuel's lifecycle greenhouse gas (GHG) emissions expressed as kg of CO_2e per mmBTU, either as established in the applicable emissions rate table published by the Secretary (pursuant to section 45Z(b)(1)(B) and paragraph (e) of this section), or, in the case of any transportation fuel for which an emissions rate has not been established in the applicable emissions rate table, a provisional emissions rate (PER) determined by the Secretary with respect to such fuel (pursuant to section 45Z(b)(1)(D) and paragraph (f) of this section).

(2) *Negative emissions rates*—(i) *In general.* The emissions rate of a transportation fuel produced after December 31, 2025, may not be less than zero (with a resulting emissions factor greater than one), unless such fuel is produced from a primary feedstock that is an animal manure. This limitation also applies to any transportation fuel (as defined in § 1.45Z–1(b)(34)) used as a production input.

(ii) *Examples.* The following examples illustrate the rules regarding negative emissions rates.

(A) *Example 1. Prohibition of negative emissions rate except for transportation fuel produced from animal manure.* In 2026, X produces renewable natural gas (RNG) by anaerobic digestion and biogas upgrading of an animal manure, and Y produces RNG by anaerobic digestion and biogas upgrading of landfill gas. The emissions rates of X's and Y's fuels are both, without further adjustment, -10 kg of CO_2e per mmBTU. X's fuel is produced from animal manure, so no adjustment of the emissions rate is necessary and the emissions factor for X's fuel is 1.2. However, because Y's fuel is not produced from animal manure, the emissions rate for Y's fuel must be adjusted up to 0, so the emissions factor for Y's fuel is 1.0.

(B) *Example 2. Prohibition of negative emissions rate for transportation fuel used as production input.* In 2026, Z produces ethanol by fermentation of U.S. corn starch. As part of the ethanol production process, Z buys alternative natural gas and uses it as process fuel. The alternative natural gas meets the definition of a transportation fuel under § 1.45Z–1(b)(34) and has an emissions rate of -100 kg of CO_2e per mmBTU. However, the alternative natural gas is not derived from animal manure and serves only as a process fuel, not the primary feedstock (*see* § 1.45Z–1(b)(34)(iii), § 1.45Z–1(b)(35), and paragraph (e) of this section), for Z's ethanol. For purposes of accounting for the alternative natural gas when calculating the emissions rate for Z's ethanol, Z must adjust the emissions rate of the alternative natural gas up to 0 kg of CO_2e per mmBTU.

(3) *Indirect land use change excluded.* For transportation fuel produced after December 31, 2025, the emissions rate of a fuel does not include any emissions attributed to indirect land use change. *See* section 45Z(b)(1)(B)(iv).

(e) *Emissions rate table*—(1) *In general.* As required by section 45Z(b)(1)(B)(i), the Secretary will annually publish a table that establishes the emissions rate for similar types and categories of transportation fuels (as defined in § 1.45Z–1(b)(35)) based on the lifecycle GHG emissions for such fuels expressed as kg of CO_2e per mmBTU (*emissions rate table*), which a taxpayer must use for purposes of the section 45Z credit. The emissions rate table for each calendar year will be published in the Internal Revenue Bulletin (*see* § 601.601 of this chapter). A taxpayer must use the applicable emissions rate table as specified in paragraph (e)(2) of this section.

(2) *Applicable emissions rate table*—(i) *In general.* For taxable years beginning after December 31, 2024, the applicable emissions rate table for a taxpayer is the emissions rate table that is in effect on the first day of the taxpayer's taxable year of production. For production after December 31, 2024, in taxable years beginning before January 1, 2025, the applicable emissions rate table is the emissions rate table effective for 2025.

(ii) *Use of applicable emissions rate table.* A taxpayer that produces a fuel for which the applicable emissions rate table establishes an emissions rate must use the corresponding allowed methodologies, as specified in paragraph (e)(3) of this section, provided in such table to determine the emissions rate for all such fuel produced during the taxpayer's taxable year.

(iii) *Emissions rate established in emissions rate table*—(A) *In general.* An emissions rate table establishes the emissions rate for a fuel if the emissions rate table includes both the type and category of fuel. An emissions rate table does not establish the emissions rate for a fuel if such table includes the type but not the category of fuel.

(B) *Effect of additions to methodology.* If an emissions rate table does not initially include a type or category of fuel but an allowed methodology is updated to add such type or category of fuel during the calendar year, then that type or category of fuel will be considered included in such emissions rate table.

(iv) *Examples.* The following examples illustrate the rules regarding the applicable emissions rate table.

(A) *Example 1. General rule for identifying applicable emissions rate table.* X, a calendar year taxpayer, is a fuel producer. In 2025, X produces biodiesel by transesterification of U.S. soybean oil. The emissions rate table for calendar year 2025 includes both biodiesel, the type of fuel X produces, and transesterification of U.S. soybean oil, the category of biodiesel X produces. Therefore, the emissions rate table for calendar year 2025 establishes the emissions rate for X's biodiesel and is the applicable emissions rate table for all of X's production of such biodiesel in 2025.

(B) *Example 2. Type or category of fuel added to allowed methodology.* Y, a calendar year taxpayer, is a fuel producer. In 2025, Y produces biodiesel by transesterification of Canadian soybean oil. The emissions rate table for calendar year 2025 includes the type of fuel Y produces, biodiesel. However, the 2025 emissions rate table for calendar year 2025 does not include transesterification of Canadian soybean oil, the category of biodiesel Y produces. The initial version of the 45ZCF–GREET model, an allowed methodology, released January 15, 2025, also includes the type but not the category of fuel Y produces. On June 1, 2025, the U.S. Department of Energy (DOE) publicly releases an updated version of the 45ZCF–GREET model that adds the transesterification of Canadian soybean oil for biodiesel. Because the update to the 45ZCF–GREET model adds the category of biodiesel Y produces during the calendar year, the emissions rate table for calendar year 2025 is considered to include the category of fuel Y produces. As such, the emissions rate table for calendar year 2025 establishes the emissions rate for Y's biodiesel and is the applicable emissions rate table for all of Y's production of such biodiesel in 2025.

(3) *Allowed methodologies for emissions rate table*—(i) *In general.* A taxpayer producing a fuel for which an emissions rate is established by the applicable emissions rate table must determine the fuel's emissions rate using the methodologies allowed under paragraphs (e)(3)(iv) and (v) of this

section (*allowed methodologies* or *allowed methodology*), as directed by the applicable emissions rate table.

(ii) *Use of most recent version of allowed methodology*—(A) *In general.* A taxpayer must use the first version of an allowed methodology that is publicly available in the taxable year of production and that includes the type and category of such fuel (*most recent version of an allowed methodology*). If an allowed methodology is updated with respect to an included type or category of fuel and such updated methodology becomes publicly available after the first day of the taxable year of production but still within such taxable year, then the taxpayer may, at its discretion, treat such updated version as the most recent version of such methodology.

(B) *Examples.* The following examples illustrate the rules regarding allowed methodologies.

(*1*) *Example 1. Choice after methodology update.* X, a calendar year taxpayer, is a fuel producer. In 2025, X produces biodiesel by transesterification of U.S. soybean oil. The 2025 emissions rate table is the applicable emissions rate table; it identifies the 45ZCF–GREET model as the only allowed methodology. The initial version of the 45ZCF–GREET model, released January 15, 2025, includes the type and category of the fuel X produces. On June 1, 2025, the DOE publicly releases a version of the 45ZCF–GREET model that updates the transesterification pathway. Under paragraph (e)(3)(ii)(A) of this section, X may use either the January 15, 2025, or the June 1, 2025, version of the 45ZCF–GREET model to calculate the emissions rate for all biodiesel produced using such pathway in 2025.

(*2*) *Example 2. Addition of type or category of fuel to methodology without further updates.* Y, a calendar year taxpayer, is a fuel producer. In 2025, Y produces biodiesel by transesterification of Canadian soybean oil. The initial version of the 45ZCF–GREET model, released January 15, 2025, includes the type, but not the category, of fuel Y produces. On June 1, 2025, the DOE publicly releases an updated version of the 45ZCF–GREET model that adds the transesterification of Canadian soybean oil for biodiesel. As such, the 2025 emissions rate table is considered to include Y's type and category of fuel; it identifies the 45ZCF–GREET model as the only allowed methodology. Under paragraph (e)(3)(ii)(A) of this section, because the June 1, 2025, version of the 45ZCF–GREET model is the first publicly available version that includes Y's type and category of fuel, Y must use the June 1, 2025, version of the 45ZCF–GREET model to calculate the emissions rate for all biodiesel it produced by transesterification of Canadian soybean oil in 2025.

(*3*) *Example 3. Choice of methodology after addition of type or category of fuel to methodology.* Same facts as in paragraph (e)(3)(ii)(B)(*2*) of this section (*Example 2*), except that on September 1, 2025, the DOE publicly releases a version of the 45ZCF–GREET model that updates the transesterification of Canadian soybean oil pathway. Under paragraph (e)(3)(ii)(A) of this section, Y cannot use the January 15, 2025, version of the 45ZCF–GREET model, but may use either the June 1, 2025, or the September 1, 2025, version of the 45ZCF–GREET model to calculate the emissions rate for all biodiesel it produced using such pathway in 2025.

(iii) *45ZCF–GREET model as a successor model*—(A) *In general.* For purposes of section 45Z(b)(1)(B)(ii), the 45ZCF–GREET model is a successor model.

(B) *Certain emissions accounting rules*—(*1*) *In general.* In the 45ZCF–GREET model, for purposes of accounting for emissions associated with hydrogen (as a production input), natural gas alternatives (as a production input or as the transportation fuel produced), electricity, and carbon capture and sequestration, rules similar to the rules under section 45V of the Code apply, unless otherwise specified by the 45ZCF–GREET model with respect to technical modeling issues that are subsequently identified by the DOE or technical differences arising from the application of the section 45V rules to the 45ZCF–GREET model.

(*2*) *Similar rule for use of energy attribute certificates (EACs); incrementality.* With respect to the use of an EAC within the 45ZCF–GREET model, rules similar to § 1.45V–4(d) apply. When applying the incrementality rules in § 1.45V–4(d)(3)(i) for purposes of the 45ZCF–GREET model, a taxpayer's facility is considered placed in service in the first taxable year it produces a transportation fuel. Thus, the electricity-generating facility that produced the unit of electricity to which the EAC relates must have a commercial operations date (COD) that is no more than 36 months before the first day of the taxable year that the facility for which the EAC is retired first produced a transportation fuel, or, if the electricity represented by the EAC is produced by an electricity-generating facility that uses carbon capture and sequestration (CCS) technology, such technology has a placed in service date that is no more than 36 months before the first day of the taxable year that the facility for which the EAC is retired first produced a transportation fuel.

(*3*) *Example. Similar incrementality rules applied to existing fuel production facility.* X owns and operates Facility, which has produced ethanol by fermentation of U.S. corn starch since 2002. On January 1, 2024, X finishes upgrading Facility, so that the ethanol produced at Facility has an emissions rate that is less than 50 kg of CO_2e per mmBTU. For purposes of accounting for emissions associated with electricity, X purchases and retires EACs and uses those EACs when calculating the emissions rate of its ethanol. Although Facility has been operating since 2002, it only began producing a transportation fuel on January 1, 2024. For purposes of applying the incrementality rules to EACs used within the 45ZCF–GREET model, Facility is considered placed in service on January 1, 2024. Thus, an electricity generating facility that produced a unit of electricity to which the EACs relate must have a COD no earlier than January 1, 2021.

(iv) *Methodology for non-SAF transportation fuel.* If the applicable emissions rate table establishes the emissions rate for a non-SAF transportation fuel, then a taxpayer producing such fuel must determine the fuel's emissions rate using the 45ZCF–GREET model, as directed by the applicable emissions rate table.

(v) *Methodologies for SAF transportation fuel.* If the applicable emissions rate table establishes the emissions rate for a SAF transportation fuel, then a taxpayer producing such fuel must determine the fuel's emissions rate using the most recent version of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) Default Life Cycle Emissions Values for CORSIA Eligible Fuels lifecycle approach (CORSIA Default) or the CORSIA Methodology for Calculating Actual Life Cycle Emissions Values lifecycle approach (CORSIA Actual) (as described in § 1.45Z–1(b)(10)(ii)), or the 45ZCF–GREET model, as directed by the applicable emissions rate table. A taxpayer may choose, for each type and category of SAF transportation fuel that it produces, which of these methodologies to use. For a given type and category of SAF transportation fuel, a taxpayer must use the same methodology to calculate lifecycle GHG emissions associated with all stages of SAF production, from feedstock production through distribution. *See* § 1.45Z–5, *Procedures for certification of lifecycle greenhouse gas emissions rates,* for information on how to certify compliance with these

methodologies. For purposes of section 45Z(b)(1)(B)(iii)(II), the 45ZCF–GREET model is a similar methodology to CORSIA.

(vi) *Additional instructions on methodologies.* A taxpayer must use an allowed methodology in accordance with the applicable emissions rate table, accurately enter all information requested by such methodology, and follow all publicly available instructions for the use of such methodology.

(f) *Provisional emissions rate (PER)*—(1) *In general.* If a taxpayer produces an eligible fuel, as defined in § 1.45Z–1(b)(12), then the taxpayer may file a petition with the Secretary for a determination of the emissions rate (*provisional emissions rate (PER)*) for such eligible fuel (*PER petition*). *See* section 45Z(b)(1)(D). Before filing a PER petition, the taxpayer must first submit a request to the DOE for an emissions value (EV) for an eligible fuel (*emissions value request (EVR)*). The DOE will consider such taxpayer the emissions value applicant (*EV applicant*). The EV applicant must receive a calculated emissions value letter (CEVL) from the DOE for such fuel. Before submitting an EVR, an EV applicant must review the applicable emissions rate table and the most recent version of the allowed methodologies to ensure that the applicable emissions rate table has not already established the emissions rate for the EV applicant's type and category of fuel. After obtaining a CEVL, the taxpayer may then file a PER petition for the eligible fuel that is the subject of the CEVL. The EV applicant must submit an EVR to the DOE in accordance with the procedures described in paragraph (f)(3) of this section. The taxpayer must submit a PER petition in accordance with the procedures described in paragraph (f)(4) of this section. The DOE and the IRS, respectively, will deny any EVR or PER petition that does not follow the procedures in this paragraph (f).

(2) *Threshold requirements.* An EV applicant may submit an EVR, and subsequently a PER petition, only for an eligible fuel. The DOE and the IRS, respectively, will deny any EVR or PER petition for a type and category of fuel included in the applicable emissions rate table. Additionally, the DOE and the IRS, respectively, will deny any EVR or PER petition based on a facility rather than a type or category of fuel.

(3) *Procedures for requesting emissions value from DOE*—(i) *In general.* The DOE will publish specific guidance and procedures for an EV applicant to submit an EVR to the DOE. An EV applicant that submits an EVR must follow the procedures specified by the DOE to request and obtain such emissions value, including the DOE's Section 45Z EVR process instructions (Instructions). The DOE will evaluate an EVR using the same well-to-wheel system boundary that the 45ZCF–GREET model employs. As used in this paragraph (f)(3), the term *well-to-wheel* includes well-to-wake with respect to aviation fuel. Additionally, the DOE will treat background data parameters in the 45ZCF–GREET model (fixed data that a 45ZCF–GREET model user cannot change) as background data (fixed data that an EV applicant cannot change) in evaluating an EVR. For purposes of accounting for emissions associated with hydrogen (as a production input), natural gas alternatives (as a production input or as the transportation fuel produced), electricity, and carbon capture and sequestration, rules similar to the rules under section 45V apply, unless otherwise specified by the DOE with respect to subsequent technical modeling issues or technical differences arising from the application of the section 45V rules to an eligible fuel. The DOE may decline to review an EVR that is not responsive, including an EVR that is not for an eligible fuel or an EVR that is incomplete. An EV applicant seeking a new emissions value for a given type and category of fuel after the DOE has completed its analysis may reapply only if the EV applicant wishes to resubmit its EVR with new or revised technical information or clarifications related to the information previously submitted. An EVR is complete once the DOE either issues the EV applicant a CEVL or denies the EVR.

(ii) *Required information for an EVR*—(A) *EVR for an eligible fuel that is not a category of hydrogen.* An EV applicant submitting an EVR for an eligible fuel that is not a category of hydrogen must submit the following information to the DOE:

(*1*) Specific sections of the Class 3 front-end engineering and design (FEED) study (or studies) as defined by the Association for the Advancement of Cost Engineering (AACE) International Recommended Practice No. 18R–97, or similar indication of project maturity such as project specification and cost estimation sufficient to inform a final investment decision, as determined by the DOE, that has been completed for each qualified facility at which the applicant produces the eligible fuel, as described further in the Instructions; and

(*2*) A completed Section 45Z EVR Form, as described in the Instructions.

(B) *EVR for an eligible fuel that is a category of hydrogen.* An EV applicant submitting an EVR for an eligible fuel that is a category of hydrogen must first submit a section 45V Emissions Value Request Application under the process for a provisional emissions rate determination for the section 45V credit, as described in § 1.45V–4(c). An EV applicant submitting an EVR for an eligible fuel that is a category of hydrogen must submit to the DOE, in addition to the general requirements in paragraph (f)(3)(ii)(A) of this section, the letter obtained under the section 45V emissions value request process from the DOE stating the well-to-gate emissions value that the DOE determined with respect to the facility's hydrogen production pathway and the control number that the DOE assigned to the section 45V Emissions Value Request Application. If the EV applicant produces that category of hydrogen at multiple facilities, such applicant will need to provide this information for each facility. Once such an EV applicant goes through the section 45V emissions value request process and then submits their EVR for purposes of section 45Z, the DOE may issue a CEVL that includes an emissions value that fully accounts for the well-to-wheel emissions of that category of hydrogen.

(4) *Procedures for requesting PER determination*—(i) *In general.* To request a PER determination, a taxpayer must file a PER petition with the Form(s) 7218 included with the taxpayer's timely filed (including extensions) Federal income tax return or Federal information return for the first taxable year for which the taxpayer claims the section 45Z credit for the eligible fuel to which the PER petition relates.

(ii) *Required information for a PER petition.* A PER petition must include the CEVL received from the DOE with respect to the eligible fuel. If the taxpayer obtained more than one emissions value from the DOE, the taxpayer must include the CEVL for each eligible fuel for which it is claiming a section 45Z credit for a given taxable year with the relevant Form(s) 7218. The CEVL(s) included with the Form(s) 7218 constitutes the PER petition.

(5) *Determination of a PER*—(i) *In general.* Upon the taxpayer's filing of a PER petition pursuant to paragraph (f)(4) of this section, the PER petition will be deemed accepted by the IRS. The IRS's deemed acceptance of such PER petition is the Secretary's determination of the PER.

(ii) *Reliance on emissions value.* A taxpayer may rely upon an emissions value provided by the DOE in a CEVL for purposes of calculating and claiming the section 45Z credit, provided that all

information, representations, or other data provided to the DOE in support of the emissions value request are accurate. If an applicable emissions rate table subsequently establishes an emissions rate for a fuel subject to a CEVL, a taxpayer must use the applicable emissions rate table and may no longer rely on the CEVL for the fuel.

(6) *Not an examination of books and records.* The Secretary's PER determination is not an examination or inspection of books of account for purposes of section 7605(b) of the Code and does not preclude or impede the IRS (under section 7605(b) or any administrative provisions adopted by the IRS) from later examining a return or inspecting books or records with respect to any taxable year for which the section 45Z credit is claimed. For example, any information, representations, or other data provided to the DOE in an EVR are still subject to examination. Further, a PER determination does not signify that the IRS has determined that any other requirements of the section 45Z credit have been satisfied for any taxable year.

(g) *Emissions rates (including PER) relate back to January 1, 2025.* The first emissions rate determined for a type and category of fuel, whether established in an applicable emissions rate table or through the PER process, relates back to January 1, 2025.

(h) *Applicability date.* This section applies to qualified sales occurring in taxable years ending on or after [date of publication of final regulations in the **Federal Register**], except that paragraph (e) of this section applies to qualified sales occurring in taxable years ending on or after January 10, 2025.

■ **Par. 3.** Sections 1.45Z–4 through 1.45Z–6 are added to read as follows:

§ 1.45Z–4 Special Rules.

(a) *Registered production in the United States required.* No section 45Z credit is determined with respect to any transportation fuel unless the taxpayer is registered, or is treated as being registered, as a producer of clean fuel under section 4101 of the Code at the time of production and the fuel is produced in the United States, which includes any territory of the United States. *See* § 1.45Z–6(b) for special rules regarding registration if the taxpayer is not the producer. *See* § 1.4101–1 for the registration rules that apply for purposes of the section 45Z credit.

(b) *Anti-stacking rules*—(1) *In general.* This paragraph (b) provides rules for determining whether an anti-stacking credit (as defined in § 1.45Z–1(b)(28)(ii)) has been allowed for a taxable year with respect to a facility. Section 45Z(d)(4)(B).

(2) *Determination of qualified facility*—(i) *In general.* The determination of whether a facility is a qualified facility must be made separately for each taxable year. Whether a facility is a qualified facility for a given taxable year depends on whether the facility produced transportation fuel sold during that taxable year and whether an anti-stacking credit was allowed for that taxable year with respect to the facility. A facility may be a qualified facility in one taxable year but not in another taxable year. If a taxpayer produces transportation fuel at multiple facilities, the determination of whether the fuel was produced at a qualified facility is made separately for each facility.

(ii) *Section 48(a)(15) election.* A section 48(a)(15) election is irrevocable, and if made, will permanently disqualify a facility from being a qualified facility for purposes of section 45Z for the taxable year of the election and all subsequent taxable years.

(iii) *Carbon capture equipment at a facility.* In the case of any transportation fuel produced at a facility that includes carbon capture equipment for which the section 45Q credit is allowed for the taxable year, that facility is not a qualified facility, and no section 45Z credit will be determined with respect to the facility for the taxable year.

(3) *Examples.* The following examples illustrate the application of the anti-stacking rules. For purposes of these examples, assume that X and Y are unrelated C corporations and that all other requirements for an anti-stacking credit are met.

(i) *Example 1. Interaction of section 45Z and section 45V credits; transportation fuel and qualified clean hydrogen produced at the same facility by persons with the same taxable year.* During 2025 and 2026, X, a calendar year taxpayer, produces transportation fuel at a facility and sells the fuel in qualified sales in 2025 and 2026. X is otherwise eligible to claim the section 45Z credit with respect to the transportation fuel it produces at the facility. During 2025 and 2026, Y, a calendar year taxpayer, produces qualified clean hydrogen (as defined in section 45V(c)(2)) at the same facility. Y claims and is allowed a section 45V credit with respect to the facility for 2025, but not for 2026. No other person is allowed a section 45V credit with respect to the facility for 2025 or 2026. Because Y is allowed a section 45V credit with respect to the facility for 2025, the facility is not a qualified facility for purposes of section 45Z for 2025 and X is not eligible to claim a section 45Z credit with respect to the facility for 2025. Because no section 45V credit is allowed with respect to the facility for 2026, the facility is a qualified facility for purposes of section 45Z for 2026. Therefore, X is eligible to claim a section 45Z credit with respect to the facility for 2026.

(ii) *Example 2. Interaction of section 45Z and section 45V credits; transportation fuel and qualified clean hydrogen produced at the same facility by persons with different taxable years.* During 2025, X, a calendar year taxpayer, produces transportation fuel at a facility and sells the fuel in a qualified sale. X is otherwise eligible to claim the section 45Z credit with respect to the facility. During 2025, Y produces qualified clean hydrogen (as defined in section 45V(c)(2)) at the same facility. Y has a taxable year of October 1 to September 30. Y claims and is allowed a section 45V credit with respect to the facility for its taxable year of October 1, 2024, to September 30, 2025, but not for its taxable year of October 1, 2025, to September 30, 2026. No other person is allowed a section 45V credit with respect to the facility for any portion of 2025. The facility is not a qualified facility for purposes of section 45Z for the period in 2025 for which Y is allowed a section 45V credit (that is, January 1 through September 30, 2025). However, the facility is a qualified facility for purposes of section 45Z for the period in 2025 for which no section 45V credit is allowed with respect to the facility (that is, October 1 through December 31, 2025). Therefore, X is eligible to claim a section 45Z credit with respect to the facility for 2025, but only for the period during which the facility is a qualified facility (that is, October 1 through December 31, 2025).

(iii) *Example 3. Interaction of section 45Z credit and section 48(a)(15) election.* During 2025, X, a calendar year taxpayer, produces transportation fuel at a facility and sells the fuel in a qualified sale. During 2025, X also produces qualified clean hydrogen (as defined in section 45V(c)(2)) at the same facility, which is a specified clean hydrogen production facility (as defined in section 48(a)(15)(C)). X is otherwise eligible to claim the section 45Z credit and to make a section 48(a)(15) election with respect to the facility. For 2025, X makes an election under section 48(a)(15) to treat the facility as energy property for purposes of the energy credit under section 48. X claims and is allowed the section 48 credit. Because the transportation fuel and the qualified clean hydrogen are produced at the same facility, and X is allowed a section

48 credit attributable to a section 48(a)(15) election with respect to the facility for 2025, the facility is not a qualified facility for purposes of section 45Z for 2025. Because the section 48(a)(15) election is irrevocable, the facility also will not be a qualified facility for purposes of section 45Z for any subsequent taxable year. Therefore, X is not eligible to claim the section 45Z credit with respect to the facility for 2025 or for any subsequent taxable year.

(iv) *Example 4. Interaction of section 45Z and section 45Q credits; transportation fuel produced at a facility that includes carbon capture equipment.* During 2025 and 2026, X, a calendar year taxpayer, produces transportation fuel at a facility and sells the fuel in a qualified sale. X is otherwise eligible to claim the section 45Z credit with respect to the facility. The facility includes carbon capture equipment (within the meaning of section 45Q). Y, a calendar year taxpayer, owns and uses the carbon capture equipment at the facility to capture carbon oxide. During 2025, Y utilizes or disposes of the carbon oxide in a manner that qualifies for the section 45Q credit. Y claims and is allowed a section 45Q credit with respect to the facility for 2025, but not for 2026. No other person is allowed a section 45Q credit with respect to the facility for 2025 or 2026. Because Y is allowed a section 45Q credit with respect to the facility for 2025, the facility is not a qualified facility for purposes of section 45Z for 2025, and X is not eligible to claim a section 45Z credit with respect to the facility for 2025. Because no section 45Q credit is allowed with respect to the facility for 2026, the facility is a qualified facility for purposes of section 45Z for 2026. Therefore, X is eligible to claim a section 45Z credit with respect to the facility for 2026.

(c) *Anti-abuse rules.* The rules of section 45Z and the section 45Z regulations must be applied in a manner consistent with the purposes of section 45Z and the section 45Z regulations (and the regulations in this chapter under sections 6417 and 6418 related to the section 45Z credit). These purposes include incentivizing the domestic production and use of clean transportation fuel and ensuring that taxpayers do not circumvent the feedstock origin and anti-stacking rules. Therefore, no section 45Z credit is determined if a taxpayer's primary purpose in producing and selling a transportation fuel is to obtain the benefit of the section 45Z credit in a manner that is wasteful, such as discarding, disposing of, or destroying the transportation fuel without putting it to a productive use. Whether the production and sale of transportation fuel is consistent with the purposes of section 45Z and the section 45Z regulations (and the regulations in this chapter under sections 6417 and 6418 related to the section 45Z credit) is based on all facts and circumstances.

(d) *Production attributable to the taxpayer*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, in the case of a facility in which more than one person has an ownership interest (and the arrangement is not classified as a partnership for Federal tax purposes), production from the facility is allocated among those persons in proportion to their respective ownership interests in the gross sales from the facility. Each owner's respective allocable share of the section 45Z credit is based on each owner's allocable share of production, determined pursuant to section 45Z and the section 45Z regulations. *See* section 45Z(f)(2).

(2) *Example.* X, Y, and Z are all calendar year taxpayers, and each owns an interest in Facility, which is a qualified facility. X has a 45 percent ownership interest in Facility, Y has a 35 percent ownership interest in Facility, and Z has a 20 percent ownership interest in Facility. Gross sales from Facility are allocated among X, Y, and Z in proportion to their ownership interests. During 2025, Facility produced 10 million gallons of transportation fuel. X, Y, and Z will each determine the amount of their section 45Z credit for 2025 based on their allocable share of the 10 million gallons of transportation fuel produced at Facility during 2025. Thus, X will determine the amount of its section 45Z credit based on 4.5 million gallons, Y will determine the amount of its section 45Z credit based on 3.5 million gallons, and Z will determine the amount of its section 45Z credit based on 2 million gallons.

(3) *Section 761(a) election.* If a facility is owned through an unincorporated organization that has made a valid election under section 761(a) of the Code, each member's undivided ownership interest in the facility will be treated as a separate facility owned by the member.

(e) *No requirement of facility ownership*—(1) *In general.* A taxpayer is not required to own the qualified facility at which the taxpayer produces transportation fuel in order for a section 45Z credit to be determined with respect to that fuel.

(2) *Application of production attribution rules if taxpayer does not own facility.* If a taxpayer produces transportation fuel at a facility owned by another person, production of that fuel will be attributed to the taxpayer unless otherwise specified in the Code or in the section 45Z regulations. In the case of a production arrangement under which multiple taxpayers produce transportation fuel at a facility that is not owned by all those taxpayers, production of the transportation fuel will be allocated among the taxpayers in proportion to their respective interests in the gross sales from that fuel, as determined under the applicable contract or other legal arrangement with respect to the fuel.

(f) *Foreign feedstock and prohibited foreign entity restrictions*—(1) *Foreign feedstock restrictions.* Transportation fuel that is produced after December 31, 2025, must be exclusively derived from a feedstock that was produced or grown in the United States, Mexico, or Canada. *See* section 45Z(f)(1)(A)(iii).

(2) *Prohibited foreign entity restrictions*—(i) *Specified foreign entity.* No section 45Z credit is determined for any taxable year of a taxpayer beginning after July 4, 2025, if the taxpayer is a specified foreign entity (as defined in section 7701(a)(51)(B) of the Code). *See* section 45Z(f)(8)(A).

(ii) *Other prohibited foreign entity.* No section 45Z credit is determined for any taxable year of a taxpayer beginning after July 4, 2027, if the taxpayer is a foreign-influenced entity (as defined section 7701(a)(51)(D) of the Code, without regard to section 7701(a)(51)(D)(i)(II)). *See* section 45Z(f)(8)(B).

(g) *Recordkeeping and substantiation*—(1) *In general.* A taxpayer claiming a section 45Z credit must maintain records sufficient to establish the taxpayer's eligibility for the section 45Z credit and the amount of the credit claimed on the return. At a minimum, those records must include records:

(i) Establishing that each fuel produced is a transportation fuel;

(ii) Establishing any relevant information relating to the primary feedstock(s) used to produce each such fuel;

(iii) Establishing that each fuel meets any additional specifications for the type of fuel described in § 1.45Z–1(b)(24) or (30);

(iv) Substantiating how the emissions rate for each fuel was determined (including, if applicable, the specific type(s) and category(ies) under the applicable emissions rate table);

(v) Relating to any fuel testing obtained by the taxpayer;

(vi) Establishing that each facility used to produce fuel is a qualified facility;

(vii) Establishing the date each facility was placed in service;

(viii) Establishing that each fuel was sold in a qualified sale;

(ix) Establishing any certification from an unrelated person and substantiating the information therein; and

(x) Used for or related to any petition for a provisional emissions rate (PER), including raw data.

(2) *Safe harbor for substantiation of emissions rate.* A taxpayer may substantiate the emissions rate for a transportation fuel which is not sustainable aviation fuel (non-SAF transportation fuel) that was determined using the 45ZCF–GREET model by obtaining certification with respect to that fuel in substantially the same form and manner described in § 1.45Z–5 for certifying an emissions rate for SAF transportation fuel determined using the 45ZCF–GREET model. A taxpayer must provide the qualified certifier with all information necessary to provide the certification, as described in § 1.45Z–5. The Secretary may provide other methods through which a taxpayer may substantiate the emissions rate for a non-SAF transportation fuel. The Secretary will prescribe any such methods in guidance published in the Internal Revenue Bulletin or in IRS forms, instructions, or publications. *See* §§ 601.601 and 601.602 of this chapter.

(3) *Safe harbor for substantiation of qualified sale*—(i) *In general.* A taxpayer may substantiate a qualified sale of transportation fuel by obtaining from the purchaser a certificate in substantially the same form as described in paragraph (g)(3)(ii) of this section. If the certificate relates to a single purchase, the taxpayer must obtain the certificate from the purchaser prior to or at the time of sale. If the certificate relates to purchases made over a period of time, the taxpayer must obtain the certificate from the purchaser prior to or at the same time as the first of the sales to which the certificate relates. A taxpayer receiving a certificate from a purchaser must have no reason to believe that any information in the certificate regarding the use of the transportation fuel is false. The Secretary of the Treasury or the Secretary's delegate (Secretary) may provide other methods through which a taxpayer may substantiate a qualified sale. The Secretary will prescribe any such methods in guidance published in the Internal Revenue Bulletin or in IRS forms, instructions, or publications. *See* §§ 601.601 and 601.602 of this chapter.

(ii) *Qualified sale model certificate*—

Certificate for Qualified Sale of Transportation Fuel

(To support a taxpayer's claim under section 45Z of the Internal Revenue Code.)

_____

_____

_____

(Name, address, and Employer Identification Number (''EIN'') of Taxpayer)

The undersigned purchaser of transportation fuel (''Purchaser'') hereby certifies the following under the penalty of perjury:

_____

Name of Purchaser

Type of transportation fuel purchased:

_____

The transportation fuel to which this certificate applies will be (mark below):

_____Used by Purchaser in the production of a fuel mixture;

_____Used by Purchaser in a trade or business; or

_____Sold by Purchaser at retail to another person and placed in the fuel tank of such other person.

This certificate applies to the following (complete as applicable):

_____This is a single purchase certificate:

1. _____Invoice or delivery ticket number
2. _____Number of gallons

_____This is a certificate covering all purchases under a specified account or order number:

1. _____Effective date
2. _____Expiration date (period not to exceed 1 year after the effective date)
3. _____Purchaser's account number

Purchaser agrees to provide the person liable for tax with a new certificate if any information in this certificate changes.

Purchaser is unrelated (within the meaning of section 52(b) of the Code and the regulations thereunder) to the Taxpayer selling the transportation fuel to which this certificate relates.

Purchaser understands that it may be liable for the penalty under section 6701 of the Code (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

Purchaser understands that the fraudulent use of this certificate may subject Purchaser and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

EIN of Purchaser

_____

Address of Purchaser

(h) *Applicability date.* This section applies to qualified sales occurring in taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

§ 1.45Z–5 Procedures for certification of lifecycle greenhouse gas emissions rates.

(a) *In general.* This section provides rules on certification from an unrelated person for sustainable aviation fuel (SAF) transportation fuel pursuant to section 45Z(f)(1)(A)(i)(II) of the Code.

(b) *Certification requirements*—(1) *In general.* For each taxable year for which a taxpayer claims a section 45Z credit for SAF transportation fuel, the taxpayer must obtain certification from an unrelated person and include such certification with the taxpayer's Form 7218, which is filed with the taxpayer's Federal income tax return or Federal information return, for each qualified facility at which the taxpayer produces SAF transportation fuel.

(2) *Content.* The certification described in paragraph (b)(1) of this section must be prepared by a qualified certifier and signed by the qualified certifier under penalty of perjury. The certification must contain information that is in substantially the same form as the model certification provided in paragraph (h) of this section and must contain all information necessary to complete the model certification. Specifically, the certification must include—

(i) A production statement described in paragraph (c) of this section from the qualified certifier regarding the production of SAF transportation fuel, including that the inputs used to determine the lifecycle greenhouse gas (GHG) emissions rate of the production process are accurate;

(ii) A conflict statement described in paragraph (d) of this section from the qualified certifier regarding conflicts of interest;

(iii) A qualified certifier statement described in paragraph (e) of this section from the qualified certifier providing information regarding the qualified certifier, including documentation of the qualified certifier's qualifications;

(iv) A qualified facility statement described in paragraph (f) of this section from the qualified certifier providing

certain general information about the qualified facility at which the SAF transportation fuel production undergoing certification occurred;

(v) Any documentation necessary to substantiate the certification process given the standards and best practices prescribed by the qualified certifier's accrediting body as they apply to the circumstances of the taxpayer and the qualified facility; and

(vi) Any other information or documentation required by applicable IRS tax forms or form instructions.

(3) *Qualified certifier*—(i) *CORSIA methodologies.* For taxpayers using the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) Default Life Cycle Emissions Values for CORSIA Eligible Fuels lifecycle approach (CORSIA Default) or the CORSIA Methodology for Calculating Actual Life Cycle Emissions Values lifecycle approach (CORSIA Actual) to determine the emissions rate for SAF transportation fuel, the term *qualified certifier* means any individual or organization that is unrelated to the taxpayer and is not an employee of the taxpayer, and that has an active accreditation from International Sustainability and Carbon Certification, Roundtable on Sustainable Biomaterials, ClassNK, or other sustainability certification scheme approved by the ICAO.

(ii) *45ZCF–GREET model.* For taxpayers using the 45ZCF–GREET model to determine the emissions rate for SAF transportation fuel, the term *qualified certifier* means any individual or organization that is unrelated to the taxpayer and is not an employee of the taxpayer, and that has an active accreditation—

(A) From the American National Standards Institute National Accreditation Board to conduct validation and verification in accordance with the requirements of International Organization for Standardization (ISO) 14065; or

(B) As a verifier, lead verifier, or verification body under the California Air Resources Board Low Carbon Fuel Standard (CARB LCFS) program.

(iii) *Qualifications are methodology specific.* Qualified certifiers are qualified to provide certification only for the associated methodologies identified in this paragraph (b)(3). A qualified certifier must have active accreditation for the associated methodology as of the date it provides a certification to a taxpayer. A taxpayer must use the qualified certifier identified in this paragraph (b)(3) for the identified emissions rate methodology used by the taxpayer.

(c) *Requirements for the production statement.* The requirements set forth in this paragraph (c) apply to the production statement required by paragraph (b)(2)(i) of this section. *See* section 45Z(f)(1)(A)(i)(II)(aa).

(1) *Data accuracy.* The production statement must be a statement that the qualified certifier performed a certification sufficient for the IRS to determine that any lifecycle GHG emissions data inputs and the operation, during the applicable taxable year, of the qualified facility that produced the SAF transportation fuel for which the section 45Z credit is claimed are accurately reflected in—

(i) The number of gallons of SAF transportation fuel produced by the taxpayer that is entered on the Form 7218 with which the certification is included; and

(ii) Either—

(A) The data the taxpayer input into the allowed methodology under § 1.45Z–2(e)(3) used to determine the lifecycle GHG emissions rate that is entered on the Form 7218 with which the certification is included; or

(B) The data the taxpayer submitted in its provisional emissions rate (PER) petition relating to the SAF transportation fuel for which the taxpayer is claiming the section 45Z credit, including data provided to the U.S. Department of Energy (DOE) in support of the taxpayer's request for the emissions value provided in the PER petition.

(2) *Emissions value.* If the production statement includes the information specified in paragraph (c)(1)(ii)(B) of this section, then the production statement must also specify the emissions value received from the DOE that was calculated using such data, expressed in kilograms of equivalent carbon dioxide (CO_2e) per 1,000,000 British thermal units (mmBTU).

(3) *Lifecycle GHG emissions rate and production amount.* The production statement must specify the lifecycle GHG emissions rate (expressed in kilograms of CO_2e per mmBTU) and the amount of SAF transportation fuel produced by the taxpayer (expressed in gallons), that are entered on the Form 7218 with which the certification is included.

(d) *Requirements for the conflict statement*—(1) *In general.* The conflict statement required by paragraph (b)(2)(ii) of this section must state that—

(i) The qualified certifier has not received a fee based to any extent on the value of any section 45Z credit that has been or is expected to be claimed by the taxpayer and no arrangement has been made for such fee to be paid at any time in the future;

(ii) The qualified certifier has not been a party to any transaction involving the sale of SAF transportation fuel the taxpayer produced or in which the taxpayer purchased primary feedstocks for the production of such SAF transportation fuel;

(iii) The qualified certifier is unrelated to the taxpayer, within the meaning of section 52(b) and the regulations thereunder, and is not an employee of the taxpayer; and

(iv) The qualified certifier is not married to anyone who is related to, or an employee of, the taxpayer.

(2) *Additional attestations required in certain circumstances.* If the qualified certifier is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the taxpayer, the attestations under paragraphs (d)(1)(i) through (iv) of this section must also be made with respect to the partnership or the person that employs or engages the qualified certifier.

(e) *Requirements for the qualified certifier statement.* The qualified certifier statement required by paragraph (b)(2)(iii) of this section must include the items set forth in this paragraph (e):

(1) *Certifier identifying information.* The qualified certifier's name, address, and certifier identification number (for example, the CARB LCFS Verifier Executive Order Number);

(2) *Qualification description.* The qualified certifier's qualifications to conduct the certification, including a description of the certification the qualified certifier received from the accrediting body;

(3) *Partnership or employer identifying information.* If the qualified certifier is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the taxpayer, the name, address, and certifier identification number of the partnership or the person that employs or engages the qualified certifier;

(4) *Signature.* The signature of the qualified certifier and the date of signature; and

(5) *Certification purpose.* A statement that the certification was conducted for Federal tax purposes.

(f) *Requirements for the qualified facility statement.* The qualified facility statement required by paragraph (b)(2)(iv) of this section must include

the information set forth in this paragraph (f) for the qualified facility at which the SAF transportation fuel production undergoing certification occurred:

(1) *Facility location.* The location of the qualified facility;

(2) *Facility description.* A description of the qualified facility, including its method of producing SAF transportation fuel;

(3) *Primary feedstock.* The type(s) of primary feedstock(s) used by the qualified facility to produce the SAF transportation fuel during the taxable year of production;

(4) *Amount of primary feedstock.* The amount(s) of primary feedstock(s) used by the qualified facility to produce the SAF transportation fuel during the taxable year of production;

(5) *Primary feedstock source location.* The location(s) from which the qualified facility sourced the primary feedstock(s) used to produce the SAF transportation fuel during the taxable year of production;

(6) *Metering devices.* A list of the metering devices used to record any data used by the qualified certifier to support the production statement under paragraph (c) of this section, along with a statement that to the best of the certifier's knowledge, the device(s) underwent industry-appropriate quality assurance and quality control, and the accuracy and calibration of the device has been tested in the year prior to the time of observation by the qualified certifier; and

(7) *Emissions rate accuracy.* Confirmation that the emissions rate of the SAF transportation fuel produced during the taxable year of production is accurate to the higher of +/−5% or 2 kilograms of CO_2e per mmBTU.

(g) *Timely certification required.* A certification described in paragraph (b)(1) of this section that includes all information required under paragraph (b)(2) of this section is valid with respect to a particular claim only if it is signed and dated by the qualified certifier no later than the due date, including extensions, of the Federal income tax return or Federal information return for the taxable year during which the SAF transportation fuel undergoing certification is sold in a qualified sale. In the case of a section 45Z credit first claimed for the taxable year on an amended return or administrative adjustment request (AAR), a certification described in paragraph (b)(1) of this section that includes all information required under paragraph (b)(2) of this section is valid with respect to the claim only if it is signed and dated by the qualified certifier no later than the date on which the amended return or AAR is filed.

(h) *Model certification.*

Certification of Lifecycle Greenhouse Gas Emissions Rates for Sustainable Aviation Fuel Production

*Certification Identification Number:*_____

(To support taxpayer's claim related to sustainable aviation fuel (SAF) under section 45Z of the Internal Revenue Code.)

The undersigned qualified certifier (''Certifier'') hereby certifies the following:

This certificate applies to SAF produced by _____ (''SAF Producer'').

_____(name, address, and EIN of SAF producer)

Registration number of the SAF producer: _____

Number of gallons of SAF produced to which this certification relates:

_____

Lifecycle greenhouse gas emissions rate expressed in kilograms of CO_2e per mmBTU: _____

_____: Initial here to affirmatively confirm that the emissions rate is accurate to the higher of +/−5% or 2 kilograms of CO_2e per mmBTU.

Taxable year SAF undergoing certification was produced:

_____

Location of qualified facility at which the SAF production undergoing certification occurred (''Facility''):

_____

Facility description including its method of producing SAF:

_____

_____

Type(s) of primary feedstock(s) used by the Facility to produce SAF during the taxable year of production:

_____

_____

Location(s) from which the Facility sourced the primary feedstock(s) used during the taxable year of production:

_____

_____: Initial here to affirmatively state that the Certifier has verified that any metering device(s) used to support this certification has been properly calibrated pursuant to industry-appropriate quality assurance and quality control standards, and the accuracy and calibration of the device has been tested within the year prior to the time of observation by the Certifier. List the metering device(s) and calibration date(s):

_____

_____

The Certifier performed a certification sufficient for the IRS to determine that any lifecycle greenhouse gas emissions data inputs and the operation, during the applicable taxable year, of the Facility that produced the SAF for which the credit is claimed are accurately reflected in—

The number of gallons of SAF produced by the taxpayer that is entered on the Form 7218 with which this certification is included; and

Either (check the line that applies):

_____: The data the taxpayer input into the allowed methodology used to determine the lifecycle greenhouse gas emissions rate that is entered on the Form 7218 with which this certification is included; or

_____: The data the taxpayer submitted in its provisional emissions rate (''PER'') petition relating to the SAF for which the taxpayer is claiming the credit, including data provided to the U.S. Department of Energy (''DOE'') in support of the taxpayer's request for the emissions value provided in the PER petition.

Emissions value received from the DOE that was calculated using such data, expressed in kilograms of CO_2e per mmBTU: _____

The Certifier, and, if applicable, the partnership or the person that employs or engages the Certifier is/has not:

1. Received a fee based to any extent on the value of any section 45Z credit that has been or is expected to be claimed by the taxpayer and no arrangement has been made for such fee to be paid at any time in the future;

2. Been a party to any transaction involving the sale of SAF the taxpayer produced or in which the taxpayer purchased primary feedstocks for the production of such SAF;

3. Related, within the meaning of section 52(b) of the Code and the regulations thereunder, to the taxpayer, or an employee of, the taxpayer; or

4. Married to anyone who is related to, or an employee of, the taxpayer.

Certifier's identifying information:

Certifier's name: _____

Address: _____

Certifier ID number: _____

Description of Certifier's qualifications to conduct the certification, including a description of the certification Certifier received from the relevant accrediting body.

_____

_____

If applicable, identifying information for the partnership or the person that employs or engages Certifier:

Name of partnership or employer:

_____

Address: _____

Certifier ID number: _____

This certification was conducted for Federal tax purposes.

Certifier has attached:

—Any documentation necessary to substantiate the certification process given the standards and best practices prescribed by the Certifier's accrediting body as they apply to the circumstances of the taxpayer and the qualified facility; and

—Any other information or documentation required by applicable IRS tax forms or form instructions.

Under penalty of perjury, Certifier declares that Certifier has examined this certification, including any accompanying documentation, and, to the best of Certifier's knowledge and belief, it is true, correct, and complete.

_____

Signature and date signed

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Certifier identification number of the person signing

(i) *Applicability date.* This section applies to qualified sales occurring in taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

§ 1.45Z–6 Procedures for filing a claim for the clean fuel production credit.

(a) *Time and manner of filing a claim.* To claim the section 45Z credit, a taxpayer must include a completed Form 7218 with the taxpayer's timely filed (including extensions) Federal income tax return or Federal information return for the taxable year for which the taxpayer is claiming the section 45Z credit. A separate Form 7218 is required for each qualified facility at which transportation fuel for which the taxpayer is claiming the section 45Z credit is produced. A taxpayer must complete Form 7218 in accordance with the instructions to that form and provide all information required by the form and instructions. A taxpayer must include with its Form 7218 any applicable certification required by § 1.45Z–5.

(b) *Proper claimant*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, only a taxpayer that is registered by the IRS as a producer of transportation fuel at the time of production may claim the section 45Z credit. *See* section 45Z(f)(1)(A)(i)(I) of the Code. *See* § 1.4101–1 for rules related to registration, including the activity letters, under which producers of transportation fuel must be registered to claim the section 45Z credit.

(2) *Special rules*—(i) *Producer is a disregarded entity.* If a taxpayer owns an entity that is disregarded as an entity separate from its owner within the meaning of § 301.7701–2(c)(2)(i) of this chapter (disregarded entity) that produces transportation fuel, and such disregarded entity is registered as a producer of transportation fuel at the time of production, the taxpayer that owns the disregarded entity is treated as the registered producer for purposes of claiming the section 45Z credit. The registration number (within the meaning of section 45Z(f)(1)(A)(i)(I) and § 1.4101–1) of that disregarded entity is attributed to the taxpayer. A taxpayer claiming a section 45Z credit with respect to transportation fuel produced by a disregarded entity that it owns must satisfy the recordkeeping requirements in § 1.45Z–4(g)(1).

(ii) *Producer is a qualified subchapter S subsidiary.* If a taxpayer owns an entity that is a qualified subchapter S subsidiary within the meaning of section 1361(b)(3)(B) of the Code (QSub) that produces transportation fuel, and such QSub is registered as a producer of transportation fuel at the time of production, the taxpayer that owns the QSub is treated as the registered producer for purposes of claiming the section 45Z credit. The registration number (within the meaning of section 45Z(f)(1)(A)(i)(I) and § 1.4101–1) of that QSub is attributed to the taxpayer. A taxpayer claiming a section 45Z credit with respect to transportation fuel produced by a QSub that it owns must satisfy the recordkeeping requirements in § 1.45Z–4(g)(1).

(iii) *Producer is a member of a consolidated group.* If a member of a consolidated group (as defined in § 1.1502–1(b) and (h), respectively) that produces transportation fuel is registered as a producer of transportation fuel at the time of production, the agent for such consolidated group is treated as the registered producer for purposes of claiming the section 45Z credit on the group's return. The registration number (within the meaning of section 45Z(f)(1)(A)(i)(I) and § 1.4101–1) of the member is attributed to the agent when claiming the section 45Z credit. The member producing the transportation fuel must satisfy all applicable requirements of section 45Z and the section 45Z regulations. For rules applicable to the agent for a consolidated group (generally the common parent), *see* § 1.1502–77.

(c) *Applicability date.* This section applies to qualified sales occurring in taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

§ 1.1361–4 [Amended]

■ **Par. 4.** Section 1.1361–4 is amended by removing the comma after the language ''and (a)(9) of this section'' in paragraph (a)(1) and adding ''and in § 1.4101–1(a)(3)(iii),'' in its place.

■ **Par. 5.** Section 1.4101–1 is added to read as follows:

§ 1.4101–1 Registration.

(a) *In general*—(1) *Overview.* This section provides rules relating to registration for purposes of the section 45Z credit. *See* sections 4101(a)(1) and 45Z(f)(1)(A)(i)(I).

(2) *Letter of Registration required.* A person is registered under section 4101 of the Code for purposes of the section 45Z credit only if the IRS has issued a Letter of Registration to the person under activity letter CN (in the case of a producer of transportation fuel which is not sustainable aviation fuel (non-SAF transportation fuel)), or activity letter CA (in the case of a producer of SAF transportation fuel), or such other activity letter(s) as the IRS may designate, and the registration has not been revoked or suspended. A person with a Letter of Registration from the IRS under any other activity letter is not registered under section 4101 for purposes of the section 45Z credit.

(3) *Separate entity treatment*—(i) *In general.* Each business unit that has, or is required to have, a separate employer identification number (EIN) is treated as a separate person for purposes of registration under this section. Thus, two business units (for example, a parent corporation and a subsidiary corporation), each of which has a different EIN, are two persons.

(ii) *Disregarded entity.* Section 301.7701–2(c)(2)(i) of this chapter (relating to certain wholly owned entities) does not apply for purposes of registration under this section. An entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2 of this chapter and that has, or is required to have, an EIN is treated as a corporation (consistent with § 301.7701–2(c)(2)(v)(B) of this chapter) for purposes of registration under this section. Therefore, if such an entity produces transportation fuel, it must be registered as a producer of transportation fuel at the time of production for its owner to be eligible to claim the section 45Z credit for such fuel.

(iii) *Qualified subchapter S subsidiary.* A qualified subchapter S subsidiary as defined in section 1361(b)(3)(B) of the Code (QSub) is treated as separate from the S corporation that owns it for purposes of registration under this section.

Therefore, a QSub that has an EIN and that produces transportation fuel must be registered as a producer of transportation fuel at the time of production in order for its S corporation owner to be eligible to claim the section 45Z credit for such fuel.

(4) *Reregistration*—(i) *Reregistration in the event of change of ownership.* As provided in section 4101(a)(5), a person is required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions). Reregistration does not apply to a company whose stock is regularly traded on an established securities market.

(ii) *Reregistration in the event of change of EIN.* If a registrant changes its EIN, such registrant must reregister under this section using its new EIN.

(iii) *Safe harbor.* A person that is required to reregister as a producer of transportation fuel due to a change in ownership or EIN is eligible to claim a section 45Z credit (provided that all requirements of section 45Z are met) as of the date the IRS received the application for reregistration, even if, at the time of fuel production, the IRS has not yet approved the reregistration. Provided the registration tests for the reregistration are met, the original registration remains in effect until the IRS revokes that registration and issues a new one.

(b) *Definitions*—(1) *Applicant.* An *applicant* is a person that has applied for registration as described in paragraph (d) of this section.

(2) *Letter of Registration.* A *Letter of Registration* is a letter issued by the IRS to approve a registration required under section 4101. A Letter of Registration includes the registrant's registration number and the effective date of the registration.

(3) *Penalized for a wrongful act.* A person has been *penalized for a wrongful act* if the person has—

(i) Been assessed any penalty under chapter 68 of the Code (or similar provision of the law of any State) for fraudulently failing to file any return or pay any tax, and the penalty has not been wholly abated, refunded, or credited;

(ii) Been assessed any penalty under chapter 68 of the Code, and such penalty has not been wholly abated, refunded, or credited, and the IRS determines that the conduct resulting in the penalty is part of a consistent pattern of failing to deposit, pay, or pay over a substantial amount of tax;

(iii) Been convicted of a crime under chapter 75 of the Code (or similar provision of the law of any State), or of conspiracy to commit such a crime, and the conviction has not been wholly reversed by a court of competent jurisdiction;

(iv) Been convicted, under the laws of the United States or any State, of a felony for which an element of the offense is theft, fraud, or the making of false statements, and the conviction has not been wholly reversed by a court of competent jurisdiction;

(v) Been assessed any tax under section 4103 of the Code and the tax has not been wholly abated, refunded, or credited; or

(vi) Had its registration under section 4101, section 4222, section 4662, or section 4682 of the Code revoked.

(4) *Related person.* For purposes of registration under section 4101 and this section, a *related person* is a person that—

(i) Directly or indirectly exercises control over an activity of the applicant;

(ii) Owns, directly or indirectly, five percent or more of the applicant;

(iii) Is under a duty to assure the payment of a tax for which the applicant is responsible;

(iv) Is a member, with the applicant, of a group of organizations (as defined in § 1.52–1(b)) that would be treated as a group of trades or businesses under common control for purposes of § 1.52–1; or

(v) Distributed or transferred assets to the applicant in a transaction in which the applicant's basis in the assets is determined by reference to the basis of the assets in the hands of the distributor or transferor.

(5) *Registrant.* A *registrant* is a person that the IRS has, in accordance with paragraph (f)(3) of this section, registered under section 4101 and whose registration has not been revoked or suspended.

(c) *Requirement to register*—(1) *In general.* Every person producing a transportation fuel is required to register with the IRS in accordance with this section. *See* section 4101(a)(1).

(2) *Consequences of failing to register.* For the criminal penalty imposed for failure to register, *see* section 7232 of the Code. For the civil penalties imposed for failure to register or reregister, *see* sections 6719 and 7272 of the Code.

(d) *Application instructions.* Application for registration under section 4101 must be made on Form 637, *Application for Registration (For Certain Excise Tax Activities),* or such other form as the IRS may designate, in accordance with the instructions to such form. *See* § 601.602 of this chapter. An applicant for registration as a producer of non-SAF transportation fuel must apply for registration under activity letter CN, or such other activity letter as the IRS may designate. An applicant for registration as a producer of SAF transportation fuel must apply for registration under activity letter CA, or such other activity letter as the IRS may designate.

(e) *Registration tests*—(1) *In general.* The IRS will register an applicant only if the IRS determines that the applicant meets the following three tests (collectively, the registration tests):

(i) The activity test;

(ii) The acceptable risk test; and

(iii) The satisfactory tax history test.

(2) *Activity test.* An applicant meets the activity test only if the IRS determines that the applicant—

(i) Is, in the course of its trade or business, regularly engaged in the activity for which it is requesting registration; or

(ii) Is likely to be (because of such factors as the applicant's business experience, financial standing, or trade connections), in the course of its trade or business, regularly engaged in the activity for which it is requesting registration within 6 months after becoming registered under section 4101.

(3) *Acceptable risk test*—(i) *In general.* An applicant meets the acceptable risk test if neither the applicant nor a related person (as defined in paragraph (b)(4) of this section) has been penalized for a wrongful act. If an applicant or a related person has been penalized for a wrongful act, the IRS may nonetheless determine that an applicant meets the acceptable risk test based on consideration of the factors enumerated in paragraph (e)(3)(ii) of this section.

(ii) *Factors to consider.* In making the determination described in paragraph (e)(3)(i) of this section, the IRS may consider factors such as the following:

(A) The time elapsed since the applicant or related person was penalized for a wrongful act.

(B) The present relationship between the applicant and any related person that was penalized for any wrongful act.

(C) The degree of rehabilitation of the person penalized for any wrongful act.

(4) *Satisfactory tax history test*—(i) *In general.* An applicant meets the satisfactory tax history test only if the IRS determines that the applicant has a satisfactory tax history as described in paragraph (e)(4)(ii) of this section.

(ii) *Satisfactory tax history.* An applicant has a satisfactory tax history only if the Commissioner determines

that the filing, deposit, and payment history for all Federal taxes of the applicant and any related person (as defined in paragraph (b)(4) of this section) supports the conclusion that the applicant will comply with its obligations under this section.

(f) *Action on the application for registration by the IRS*—(1) *Review of application.* The IRS may investigate the accuracy and completeness of any representations made by an applicant and request any additional relevant information from the applicant.

(2) *Denial.* If the IRS determines that an applicant does not meet all the registration tests described in paragraph (e) of this section, the IRS will notify the applicant, in writing, that its application for registration is denied and state the basis for the denial.

(3) *Approval.* If the IRS determines that an applicant meets all the registration tests described in paragraph (e) of this section, the IRS will register the applicant under section 4101 and issue the applicant a Letter of Registration that includes the effective date of the registration and the appropriate activity letter(s). A copy of an application for registration (Form 637) is not a Letter of Registration.

(g) *Terms and conditions of registration*—(1) *Affirmative duties.* Each applicant or registrant must—

(i) Make deposits, file returns, and pay taxes as required by the Code and the regulations;

(ii) Keep records sufficient to show production of a transportation fuel;

(iii) Notify the IRS of any change in the information the registrant submitted in connection with its application for registration or previously submitted under this paragraph (g)(1)(iii) within 10 days after the change occurs. Changes requiring IRS notification include, but are not limited to, changes in ownership, address, and business activities.

(2) *Prohibited actions.* An applicant or registrant may not—

(i) Sell, lease, or otherwise allow another person to use its registration, except as otherwise provided in § 1.45Z–6(b)(2); or

(ii) Make any false statement to the IRS in connection with a submission under section 4101.

(h) *Effect of Letter of Registration.* A Letter of Registration is not a determination of liability for tax, eligibility for a tax credit or deduction, or any other tax treatment under the Code. For example, a Letter of Registration issued under activity letter CN to a person producing a fuel is not a determination that such fuel is a transportation fuel under section 45Z(d)(5)(A) or that the facility at which the person produces such fuel is a qualified facility under section 45Z(d)(4). A Letter of Registration is also not a determination letter, as defined in § 601.201(a)(3) of this chapter.

(i) *Adverse actions by the IRS against a registrant*—(1) *Mandatory revocation or suspension.* The IRS will revoke or suspend the registration of any registrant if the IRS determines that the registrant, at any time—

(i) Does not meet one or more of the registration tests in paragraph (e) of this section and has not corrected the deficiency within a reasonable period of time after notification by the IRS;

(ii) Has used its registration to evade, or attempt to evade, the payment of any tax, or to postpone or in any manner to interfere with the collection of any such tax, or to make a fraudulent claim for a credit or payment;

(iii) Has aided or abetted another person in evading, or attempting to evade, payment of any tax, or in making a fraudulent claim for a credit or payment; or

(iv) Has sold, leased, or otherwise allowed another person to use its registration, except as otherwise provided in § 1.45Z–6(b)(2).

(2) *Remedial action permitted in other cases.* If the IRS determines that a registrant has, at any time, failed to comply with the terms and conditions of registration in paragraph (g) of this section, made a false statement to the IRS in connection with its application for registration (or reregistration) or for retention of registration, or otherwise used its registration in a manner that creates a significant risk of nonpayment or late payment of tax, then the IRS may revoke or suspend the registrant's registration.

(3) *Action by the IRS to revoke or suspend a registration.* If the IRS revokes or suspends a registration, the IRS will notify the registrant in writing and state the basis for the revocation or suspension and the activity letter(s) to which the revocation or suspension relates. The effective date of the revocation or suspension may not be earlier than the date on which the IRS notifies the registrant.

(j) *Applicability date.* This section applies to persons producing transportation fuel in taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 6.** Section 1.6417–2 is amended by revising paragraphs (c)(4) and (f) to read as follows:

§ 1.6417–2 Rules for elective payment elections.

* * * * *

(c) * * *

(4) *Credits must be determined with respect to the applicable entity or electing taxpayer.* Any credits for which an elective payment election is made must have been determined with respect to the applicable entity or electing taxpayer. An applicable credit is determined with respect to an applicable entity or electing taxpayer if the applicable entity or electing taxpayer owns the underlying applicable credit property and conducts the activities giving rise to the credit or, if ownership is not required to give rise to the applicable credit, such as a credit under section 45Z or section 45(d)(3)(C), the applicable entity or electing taxpayer must conduct the activities giving rise to the credit. In the case of section 45X (under which ownership of applicable credit property is also not required, but for which rules related to contract manufacturing arrangements may be applicable), the applicable entity or electing taxpayer must be considered (under the section 45X regulations) the taxpayer with respect to which the section 45X credit is determined. Thus, no election may be made under this section for any credits transferred pursuant to section 6418, allowed pursuant to section 45Q(f)(3), acquired by a lessee from a lessor by means of an election to pass through the credit to a lessee under former section 48(d) (pursuant to section 50(d)(5)), owned by a third party, or otherwise not determined with respect to the applicable entity or electing taxpayer.

* * * * *

(f) *Applicability dates*—(1) *In general.* Except as otherwise provided in this paragraph (f), this section applies to taxable years ending on or after March 11, 2024. For taxable years ending before March 11, 2024, taxpayers, however, may choose to apply the rules of §§ 1.6417–1 through 1.6417–4 and 1.6417–6, provided the taxpayers apply the rules in their entirety and in a consistent manner.

(2) *Paragraph (c)(4).* Paragraph (c)(4) of this section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**]. For taxable years ending before [date of publication of final regulations in the **Federal Register**], see § 1.6417–2(c)(4) as contained in 26 CFR part 1, revised April 1, 2025.

■ **Par. 7.** Section 1.6418–2 is amended by revising paragraphs (d)(1) and (g) to read as follows:

§ 1.6418–2 Rules for making transfer elections.

* * * * *

(d) *Determining the eligible credit*—(1) *In general.* An eligible taxpayer may only transfer eligible credits determined with respect to the eligible taxpayer (paragraph (a)(4) of this section disallows transfer elections in other situations). An eligible credit is determined with respect to an eligible taxpayer if the eligible taxpayer owns the underlying eligible credit property and conducts the activities giving rise to the credit or, if ownership is not required to give rise to the eligible credit, such as a credit under section 45Z or section 45(d)(3)(C), the eligible taxpayer must conduct the activities giving rise to the credit. In the case of section 45X (under which ownership of eligible credit property is also not required, but for which rules related to contract manufacturing arrangements may be applicable), the eligible taxpayer must be considered (under the section 45X regulations) the taxpayer with respect to which the section 45X credit is determined. All rules that relate to the determination of the eligible credit, such as the rules in sections 49 and 50(b) of the Code, apply to the eligible taxpayer and therefore can limit the amount of eligible credit determined with respect to an eligible credit property that can be transferred. Rules relating to the amount of an eligible credit that is allowed to be claimed by an eligible taxpayer, such as the rules in section 38(c) or section 469 of the Code, do not limit the eligible credit determined, but do apply to a transferee taxpayer as described in paragraph (f)(3) of this section.

* * * * *

(g) *Applicability dates*—(1) *In general.* Except as otherwise provided in this paragraph (g), this section applies to taxable years ending on or after April 30, 2024. For taxable years ending before April 30, 2024, taxpayers, however, may choose to apply the rules of this section and §§ 1.6418–1, 1.6418–3, and 1.6418–5, provided the taxpayers apply the rules in their entirety and in a consistent manner.

(2) *Paragraph (d)(1).* Paragraph (d)(1) of this section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**]. For taxable years ending before [date of publication of final regulations in the **Federal Register**], see § 1.6418–2(d)(1) as contained in 26 CFR part 1, revised April 1, 2025.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

■ **Par. 8.** The authority citation for part 48 continues to read in part as follows:

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

* * * * *

Section 48.4101–1 also issued under 26 U.S.C. 4101(a)(1).

* * * * *

■ **Par. 9.** Section 48.4101–1 is amended by adding paragraphs (a)(7) and (8), and (l)(6), to read as follows:

§ 48.4101–1 Taxable fuel; registration.

* * * * *

(a) * * *

(7) A letter of registration is not a determination of liability for tax, eligibility for a tax credit or deduction, or any other tax treatment under the Code. For example, a registration letter issued under activity letter SA to a person producing or importing a fuel that may be eligible for a credit under section 6426(k) of the Code is not a determination that such fuel qualifies for the section 6426(k) credit. A letter of registration is also not a determination letter, as defined in § 601.201(a)(3) of this chapter. The terms *letter of registration* and *registration letter* as used in this section have the same meaning as the term *Letter of Registration* as defined in § 1.4101–1(b)(2) of this chapter.

(8) A person is required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions). Reregistration does not apply to any company whose stock is regularly traded on an established securities market. If a registrant changes its employer identification number (EIN), such registrant must reregister under this section using its new EIN.

* * * * *

(l) * * *

(6) Paragraphs (a)(7) and (8) of this section apply to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

Frank J. Bisignano,

Chief Executive Officer.

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Part III

The President

Executive Order 14381—Celebrating American Greatness With American Motor Racing

Federal Register
Vol. 91, No. 23
Wednesday, February 4, 2026

Presidential Documents

Title 3—

The President

Executive Order 14381 of January 30, 2026

Celebrating American Greatness With American Motor Racing

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *Purpose and Policy.* For over 100 years, American INDYCAR racing has set the pace for motor sports. With speeds topping over 200 miles per hour, the cars and drivers inspire awe and respect in all who watch this quintessentially American sport. It has given us racing legends such as A.J. Foyt and Mario Andretti, and continues to thrill every Memorial Day weekend when people travel from across the globe to the Indianapolis 500, the largest single-day sporting event in the world.

INDYCAR racing is a source of pride and entertainment for our Nation, which is why I am pleased to announce the Freedom 250 Grand Prix in Washington, D.C. This race, the first motor race ever to be held in our Nation's capital near the National Mall, will showcase the majesty of our great city as drivers navigate a track around our iconic national monuments in celebration of America's 250th birthday.

Sec. 2. *Designating the Race Route.* Within 14 days of the date of this order, the Secretary of the Interior and the Secretary of Transportation shall designate a route through Washington, D.C., that is suitable for conducting an INDYCAR street race and that will showcase the majesty of our capital city in celebration of the 250th anniversary of America's independence.

Sec. 3. *Permits and Approvals.* The Secretary of the Interior and the Secretary of Transportation shall take steps to ensure that all permits, approvals, and other authorizations as are necessary to plan, prepare for, and conduct the Freedom 250 Grand Prix are issued and granted as expeditiously as possible. Such steps may include the Secretary of the Interior considering the Freedom 250 Grand Prix to be a ''special event'' under 36 C.F.R. 7.96(g), as amended by 90 *Fed. Reg.* 25498 (temporary rule re: National Capital Region; America250 Events), if the Secretary of the Interior deems it necessary and appropriate. The Secretary of Transportation shall use available funds to help facilitate the presentation of the race, consistent with applicable law and as deemed appropriate by the Secretary of Transportation, and, working with and through the Administrator of the Federal Aviation Administration, take steps to ensure that unmanned aircraft systems and other means of aerial photography may be utilized by appropriately permitted individuals to enhance the public's enjoyment of the race and to celebrate the beauty of the Nation's capital without compromising nearby Government facilities. The Secretary of the Interior and the Secretary of Transportation, in coordination with the Mayor of Washington, D.C., as needed, shall ensure that any roads, trails, or bridges to be used as part of the race course are properly maintained and capable of being used in such a manner.

Sec. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

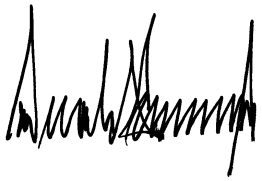
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of the Interior.



THE WHITE HOUSE,
January 30, 2026.

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