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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2025–5384; Airspace Docket No. 25–ANM–144]

RIN 2120–AA66

Modification of Class E Airspace; Denver International Airport, Denver, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface and removes the Class E airspace extending upward from 1,200 feet above the surface at Denver International Airport, Denver, CO. Additionally, this action makes an administrative modification to the airport's Class E airspace legal description. These actions support the safety and management of instrument flight rules (IFR) operations within the airspace described herein.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published an NPRM for Docket No. FAA–2025–5384 in the **Federal Register** (90 FR 61105; December 30, 2025), proposing to modify the Class E airspace at Denver International Airport, Denver, CO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

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

The Rule

This rule modifies the transitional Class E airspace at Denver International Airport, Denver, CO, by extending the portion of the Class E airspace extending upward from 700 feet above the surface and removing the portion extending upward from 1,200 feet above the surface.

The transitional Class E airspace at Denver serves Denver International Airport and provides containment for IFR aircraft operating from Denver's surrounding airports. The Class E airspace at Denver extends to 17.8 miles south of Centennial Airport, Denver, CO, to provide containment for Centennial Airport's arriving IFR aircraft operations below 1,500 feet above the surface. Prior to this final rule, the extension was not sufficient in size to fully capture the ZOMBZ SIX ARRIVAL (Area Navigation [RNAV]) procedure that provides guidance to aircraft arriving at Centennial Airport until established on an instrument arrival procedure (or otherwise). Accordingly, the Class E airspace extending upward from 700 feet above the surface at Denver is extended approximately four miles to the south to better contain the ZOMBZ SIX ARRIVAL (RNAV) procedure.

Furthermore, the portion of Class E airspace extending upward from 1,200 feet above the surface at Denver is removed, as the Denver Class E Domestic En Route Airspace provides sufficient containment and duplication is not necessary.

Finally, the legal description for Denver's Class E airspace extending upward from at least 700 feet above the surface uses the Denver Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) as its reference point (which is incorrectly listed as a VOR). The VOR Minimum Operational Network (MON) Implementation Program (81 FR 48694) selected the Denver VOR/DME for Phase 2 discontinuance from the National Airspace System. As such, the Denver VOR/DME is no longer used to describe the airspace. A ''Point of Origin'' with identical geographical coordinates as

the Denver VOR/DME now describes the airspace in its place.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM CO E5 Denver, CO [Amended]

Point of Origin

(Lat. 39°48′45″ N, long. 104°39′39″ W)

That airspace extending upward from 700 feet above the surface within a 28-mile radius of the Point of Origin, and within 13 miles west of the Point of Origin's 178° bearing extending to 37 miles south.

* * * * *

Issued in Des Moines, Washington, on March 26, 2026.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2026–06214 Filed 3–30–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 816

[Docket ID: OSM–2025–0025 S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AD03

Backfilling and Grading

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is confirming the effective date of the direct final rule entitled, ''Backfilling and Grading,'' which was originally published on November 28, 2025. The direct final rule rescinded a regulation that prescribed time and distance performance standards for the completion of rough backfilling and grading for surface mining operations that were suspended by the Secretary of the Interior in 1992 but never removed from the Code of Federal Regulations. During the comment period, OSM received two comments that required further review and consideration to determine whether the comments warranted a response or the withdrawal or modification of the final rule. After further review and consideration, OSM determined that these comments were not significant adverse comments and is confirming the effective date of this rule.

DATES: The effective date of March 30, 2026, for the direct final rule published at 90 FR 54573 (Nov. 28, 2025), delayed at 91 FR 3374 January 27, 2026, is confirmed.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The direct final rule, which was published at 90 FR 54573 (Nov. 28, 2025), included a 30-day public comment period that ended on December 29, 2025. The original effective date of the direct final rule was January 27, 2026. However, OSM received two timely comments on the rule, and OSM decided to extend the original effective date to allow for sufficient time to review and consider those comments to determine whether they were significant adverse comments warranting a response or withdrawal or modification of the final rule. Consequently, on January 27, 2026, OSM published a **Federal Register** notice delaying the effective date for 60 days until March 30, 2026.

The two timely comments expressed opposition to OSM's decision to lift the suspension of 30 CFR 816.101 and remove the suspended language. Commenters generally disagreed with OSM's characterization of the provision as unnecessary and unlawful and alleged that OSM's final rule is major, controversial, and should be reconsidered with notice and comment rulemaking. In addition to receiving the two timely comments, in March 2026, long after the close of the comment period, OSM received one additional comment; due to the untimely nature of this comment, it was not considered.

After careful review of the timely comments, and discussed in greater detail below, OSM determined that the comments are not significant adverse comments warranting withdrawal or modification of the final rule because the commenters misunderstand the intent and effect of this final rule. Contrary to the commenters' allegations, removing inoperative language will not have any impact on the current requirements of SMCRA and the Federal regulations or on OSM's ability in the future to promulgate regulations setting forth time and distance requirements for backfilling and grading. The bottom line

remains that the regulations at issue in this final rule have been inoperable since 1992, when OSM published notice that it was suspending the regulation. Any opposition to that suspension was required to be filed at that time—*i.e.,* 34 years ago. While OSM agreed at that time that it would follow the notice and comment requirements for the Administrative Procedure Act (APA) for any future rulemakings to revise the time and distance requirements for backfilling and grading, OSM has not proposed any new regulations to replace the suspended provisions and is not doing so at this time. OSM is merely removing language that has no application, cannot be enforced, and could be confusing to someone without deep familiarity with the history of the SMCRA implementing regulations and esoteric procedures related to the Code of Federal Regulations.

Further, OSM rejects the commenters' assertions that the language of 30 CFR 816.101 is necessary and lawful. As noted above, this provision has no applicability, making it unnecessary, and any attempt to enforce this provision would be rejected because the provision was suspended over 30 years ago, making any attempt to enforce the provision unlawful.

Finally, commenters contend that the topic of time and distance requirements for backfilling and grading is simply too controversial to be addressed by a direct final rule and that classifying the rule as ''technical'' does not insulate it from controversy that would require notice and comment rulemaking. In support of this position, one commenter attached documents alleging environmental harms related to surface coal mining operations for which reclamation was delayed for years after active coal extraction ended. OSM rejects the characterization of a direct final rule removing inoperative language as controversial merely because the inoperative language, if operative, would pertain to an issue of importance to the commenter. By that logic, no technical or housekeeping rule could ever be promulgated without notice and comment if even one individual alleges that the large, more general topic itself is controversial. Further, the commenters' own inaction on this issue for the last thirty years undercut their arguments. In the three decades since this rule was suspended, commenters have not requested a rulemaking on this topic and, as recently as last year, when the Department sought comments on regulations that should be modified or repealed. Neither commenter suggested any revisions to this provision. 90 FR 21504 (May 20, 2025) (Docket DOI–2025–0005); *see also* 30 CFR 700.12.

As OSM made clear in the preamble to the rule, OSM had good cause under 5 U.S.C. 553(b)(B) to forgo notice-and-comment rulemaking because the rule is noncontroversial, only makes a technical update to remove a long suspended an inoperative rule, involves little agency discretion, and is unlikely to generate significant adverse comments. *See* 90 FR 54573. Moreover, even if OSM had no good cause to forgo notice-and-comment rulemaking, the direct final rule itself provided notice and an opportunity for comment and the commenters availed themselves of that opportunity. On that basis, the direct final rule complies with the APA.

For the reasons stated above, OSM determined that the two timely comments received on this rule were not significant adverse comments and there is no need to withdraw the direct final rule or provide any further notice and comment. As such, this notice confirms that this final rule will be effective on March 30, 2026.

Lanny E. Erdos,

Director, Office of Surface Mining Exercising the Authority of the Assistant Secretary—Land and Minerals Management.

[FR Doc. 2026–06197 Filed 3–30–26; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 874

[Docket No. OSM–2025–0015; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

RIN 1029–AC99

General Reclamation Requirements

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is confirming the effective date of March 30, 2026, for the direct final rule entitled, ''General Reclamation Requirements,'' which was published in the **Federal Register** on November 28, 2025. The direct final rule revised the Federal regulations to rescind obsolete language requiring compliance with the regulations when funding reclamation projects with prior balance replacement funds, which are moneys from the United States Treasury's General Fund that replaced State or Tribal share funds that were allocated before October 1, 2007, but were never appropriated by Congress. During the comment period, OSM received comments that required further review and consideration to determine whether the comments warranted a response, or the withdrawal or modification of the final rule. After further review and consideration, OSM determined that these comments were not significant adverse comments and is confirming the effective date.

DATES: The effective date of March 30, 2026, for the direct final rule published at 90 FR 54582 (Nov. 28, 2025), delayed at 91 FR 3374 (Jan. 27, 2026), is confirmed.

FOR FURTHER INFORMATION CONTACT: James Tyree, Chief, Division of Regulatory Support, (202) 208–4479, *jtyree@osmre.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The direct final rule, which was published at 90 FR 54582 (Nov. 28, 2025), included a 30-day public comment period that ended on December 29, 2025. The original effective date of the direct final rule was January 27, 2026; however, OSM received four timely comments on the rule, and OSM extended the original effective date to allow for sufficient time to review and consider those comments to determine whether they were significant adverse comments that might warrant a response or withdrawal or modification of the final rule. Consequently, on January 27, 2026, OSM published a document in the **Federal Register** (91 FR 3374) delaying the effective date of the rule for 60 days, until March 30, 2026.

The four timely comments were generally generic and discussed broad, mostly non-germane themes related to reclamation, coal mining, and funding to Indian tribes. One comment, submitted anonymously, did raise some questions related to prior balance replacement funds in an effort to seek administrative clarity. No commenter expressly disagreed with the rule. In addition to receiving the four timely comments, in March 2026, long after the close of the comment period, OSM received one additional comment that purported to make comments on this

rule; due to the untimely nature of this comment, it was not considered.

After careful review of the timely comments, and discussed in greater detail below, OSM has determined that the comments were not significant adverse comments that warrant withdrawal or modification of the final rule because the commenters did not effectively challenge the rule's underlying premise or approach or explain why the rule would be ineffective or inappropriate without a revision.

One commenter asked a series of questions related to prior balance replacement funds, such as the amount unspent by grantees and requesting a crosswalk that identifies the applicable Code of Federal Regulations (CFR) edition and key conditions for any remaining awards and a simple table showing remaining balances and project status by State and Tribe. While OSM appreciates the commenter's interest in clarity, neither a crosswalk nor a table of funding is necessary. Wyoming is the only State or Tribe that received prior balance replacement funds and that still has an unspent balance (less than $1 million). While we agree that this State should have clarity about how its prior balance replacement funds can be spent, the statutory framework has not changed, and Wyoming has operated under these requirements for many years and will continue to do so because Wyoming must continue to comply with the terms and conditions of its existing grant agreement, including the regulations in place at the time of the grant award. Because those requirements remain in effect, the direct final rule does not alter how the State obligates or expends its remaining funds, including for SMCRA's contractor responsibility, eligibility, and priority requirements. Likewise, Tribes with approved SMCRA reclamation programs are unaffected because they have already expended their prior balance replacement funds. Thus, the suggestions for additional information, to the extent they are even appropriate in a regulation, do not render the direct final rule, without such addition, ineffective.

Moreover, as OSM made clear in the preamble to the rule, iOSM had good cause under 5 U.S.C. 553(b)(B) to forgo notice-and-comment rulemaking because the rule is noncontroversial, makes only minor and technical updates, involves little agency discretion, and is unlikely to generate significant adverse comments. *See* 90 FR 54582. OSM also committed to withdrawing the rule or issuing a new rule if significant adverse comments were received. For the reasons stated above, OSM determined that the comments received on this rule are not significant adverse comments and that they do not justify making any modifications to the rule or withdrawing the final rule. Moreover, even if OSM had no good cause to forgo notice-and-comment rulemaking, the direct final rule itself provided notice and an opportunity for comment and the commenters availed themselves of that opportunity. On that basis, the direct final rule complies with the APA.

As such, this notice confirms that this final rule will be effective on March 30, 2026.

Lanny E. Erdos,

Director, Office of Surface Mining Exercising the Authority of the Assistant Secretary—Land and Minerals Management.

[FR Doc. 2026–06196 Filed 3–30–26; 8:45 am]

BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Part 111

Parcel Dimension Compliance

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) in various sections to expand the current requirement to include accurate parcel dimensions in a manifest.

DATES: *Effective Date:* July 12, 2026.

FOR FURTHER INFORMATION CONTACT: Catherine Knox at (202) 268–5636 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: On January 8, 2026, the Postal Service published a notice of proposed rulemaking (91 FR 651–652) to expand the current dimensional reporting requirement to include accurate parcel dimensions in a Shipping Services file manifest or other approved electronic documentation (herein referred to as manifest). In response to the proposed rule the Postal Service received seven responses, some which included comments on multiple topics. A majority of the responses agreed with the requirement to include all parcel dimensions in the manifest with reservations. A majority of the responses also questioned the Postal Service approach to ensure accuracy. A few responses had other questions.

After reviewing the comments submitted and consulting with various stakeholders the Postal Service has decided to move forward with the proposed rulemaking in a two-phase approach.

Phase One

In phase one, effective July 12. 2026, the Postal Service will move forward with the implementation of requiring accurate dimensions be reported in the manifest for all parcels. During phase one, the Postal Service will evaluate data, review customer activity, identify thresholds, and implement and test trusted systems accuracy. Assessing the Dimension Noncompliance fee for omitting the dimensions or for inaccurately reported dimensions in the manifest will be deferred until the implementation of phase two. However, in the interim, the Postal Service will continue to charge the Dimension Noncompliance fee for parcels that exceed 1 cubic foot or 22 inches in length if the parcel's dimensions are omitted or inaccurate in the manifest until implementation of the ''Parcel Dimension Compliance'' initiative phase two.

Phase Two

In phase two, tentatively scheduled for early 2027, the Postal Service will implement an automated approach to detect dimensions are included and that they are accurate in the manifest. This schedule is tentative and subject to change. At this time, the Postal Service will begin to assess the Dimension Noncompliance fee for omitting the dimensions or for inaccurately reported dimensions in the manifest.

As the Postal Service moves forward in the development of this phase, we will establish the protocols that will be communicated to our business partners in response to the following:

- Dispute standards and recourse.
- Published specifications including tolerances and rounding rules.
- Will the equipment used to measure shipments be certified as legal for trade and conform to current county/state/municipality-level weights and measures rules.
- Will there be an exception process, and if so, how will the Postal Service communicate information regarding exceptions?
- How will the Postal Service resolve instances in which there are different dimensions of the same package from different pieces of equipment?
- Will soft packaging and ''Cubic Soft Packs'' be exempt from sampling and the assessment of a fee.

The establishment of phase two will require the Postal Service to work closely with our business partners to implement standards that are mutually

beneficial. This includes providing our business partners with adequate lead time to ensure a smooth transition into the implementation of phase two of this initiative.

Comments and the Postal Service responses to other questions are summarized as follows:

Comment: Several commentors questioned why the Postal Service is proposing this revision to the standards.

Response: This FRN was proposed to support USPS in modeling and forecasting its capacity to manage transportation, improve operational efficiencies, streamline workflow, and enhance trusted-scale technology.

Comment: One commenter believed that the materials should be reviewed under the Paperwork Reduction Act, Regulatory Flexibility Act, and related guidance.

Response: For a variety of legal reasons, these laws, and by extension any related guidance, do not apply to the Postal Service or this rulemaking.

Comment: One commentor questioned whether the ''cubic soft pack'' measurement calculation would be affected by this revision.

Response: The Postal Service is not changing the measurement calculation for ''cubic soft pack'' in this revision.

Comment: One commentor questioned whether USPS Returns® would be implicated.

Response: The proposed rulemaking clearly stated, ''Dimensions would not be required for Flat Rate priced pieces or USPS Returns pieces.''

Comment: One commentor questioned how and when assessments will be applied for non-conforming shipments.

Response: As stated above, the Postal Service will begin assessing for noncompliance with the implementation of phase two.

Comment: One commentor questioned if packages damaged or deformed after tendering be excluded from measurement and resulting assessment.

Response: The intent of the sampling is to ensure the accuracy of the reported data. Mailpieces that are damaged or deformed will not be used to validate accuracy of data.

Comment: Several commentors voiced concerns that there will be an increase in shipper operational efficiency and erroneous fees that will push shippers using GA back to the competition, that the $3 fee being applied on parcels that already have correct postage, to establish an industry-standard mechanism to reconcile estimated or final dimensions where the shipper can agree to pay adjustments (''pay-for-use''), and a policy that focuses on data completeness and price adjustment, not ''punitive measures,'' and with the requirements being a higher cost for shippers (increased labor for handling/measuring, capital for implementing dimension capture capabilities, narrow profit margins), that the change will drive customers using GA back to the competitor, and requests USPS minimize competitive migration by first implementing postage upcharges for non-compliant packages.

Response: The Postal Service is mindful of the concerns in these comments and plans to address these very exact concerns and balance them with our need for accuracy and efficiency during phase two of this initiative.

The Postal Service is expanding the current standard in the Domestic Mail Manual by requiring mailers to always include accurate dimensions (length, width, and height) for parcels included in a manifest. Dimensions would not be required for Flat Rate priced pieces or USPS Returns® pieces. Failure to comply with the expanded requirement will subject the parcel to the Dimension Noncompliance fee which is deferred until phase two. This revision only applies to commercial Priority Mail Express®, Priority Mail®, USPS Ground Advantage®, and Parcel Select®, products.

The Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

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

PART 111—[AMENDED]

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

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

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

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

* * * * *

200 Commercial Letters, Cards, Flats, and Parcels

* * * * *

210 Commercial Mail Priority Mail Express

213 Prices and Eligibility

* * * * *

1.0 Prices and Fees

* * * * *

1.4 Dimensional Weight Price for Low-Density Parcels

* * * * *

[Delete 1.4.4, Dimensional Weight Pricing Dimension Standard, in its entirety.]

* * * * *

1.8 Nonstandard Fees

Except for Priority Mail Express Return service, a Priority Mail Express piece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

* * * * *

[Revise the text of items g and h to read as follows:]

g. Shipping Services file manifests or other approved electronic documentation must include the extra service code (ESC) for the characteristics category (see 201.7.6.2).

h. Mailers of parcels requiring the characteristics extra service code (ESC) under 1.8g and have a Shipping Services file manifest or other approved electronic documentation, that do not meet the requirement to include the ESC will be assessed the Dimension Noncompliance fee under 1.9.

1.9 Dimension Noncompliance Fee

[Revise the first sentence of 1.9 to read as follows:]

Except for Flat Rate priced pieces and Priority Mail Express Return service pieces, mailers of Priority Mail Express parcels are required to include the parcel's dimensions (length, width, height), and when applicable the characteristics ESC (see 1.8g), in the Shipping Services file manifest or other approved electronic documentation or will be assessed the Dimension Noncompliance fee (see Notice 123—Price List) if the parcel's dimensions or ESC are omitted or inaccurate. ***

[Add a note to the end of 1.9 that reads as follows:]

Note: Mailers of Priority Mail Express parcels will continue to be charged the Dimension Noncompliance fee for parcels

that exceed 1 cubic foot or 22 inches in length if the parcel's dimensions are omitted or inaccurate in the Shipping Services file manifest or other approved electronic documentation until implementation of the ''Parcel Dimension Compliance'' initiative phase two.

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220 Commercial Mail Priority Mail

223 Prices and Eligibility

1.0 Prices and Fees

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1.4 Dimensional Weight Price for Low-Density Parcels

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[Delete 1.4.4, Dimensional Weight Pricing Dimension Standard, in its entirety.]

* * * * *

1.10 Nonstandard Fees

Except for Flat Rate and Priority Mail Return service packages, a Priority Mail piece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

* * * * *

[Revise the text of items g and h to read as follows:]

g. Shipping Services file manifests or other approved electronic documentation must include the extra service code (ESC) for the characteristics category (see 201.7.6.2).

h. Mailers of parcels requiring the characteristics extra service code (ESC) under 1.10g and have a Shipping Services file manifest or other approved electronic documentation, that do not meet the requirement to include the ESC will be assessed the Dimension Noncompliance fee under 1.11.

1.11 Dimension Noncompliance Fee

[Revise the first sentence of 1.11 to read as follows:]

Except for Flat Rate priced pieces and Priority Mail Return service pieces, mailers of Priority Mail parcels are required to include the parcel's dimensions (length, width, height), and when applicable the characteristics ESC (see 1.10g), in the Shipping Services file manifest or other approved electronic documentation or will be assessed the Dimension Noncompliance fee (see Notice 123—Price List) if the parcel's dimensions or ESC are omitted or inaccurate. ***

[Add a note to the end of 1.11 that reads as follows:]

Note: Mailers of Priority Mail parcels will continue to be charged the Dimension Noncompliance fee for parcels that exceed 1 cubic foot or 22 inches in length if the parcel's dimensions are omitted or inaccurate in the Shipping Services file manifest or other approved electronic documentation until implementation of the ''Parcel Dimension Compliance'' initiative phase two.

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250 Commercial Mail Parcel Select

253 Prices and Eligibility

1.0 Prices and Fees

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1.2 Dimensional Weight Price for Low-Density Parcels

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[Delete 1.2.4, Dimensional Weight Pricing Dimension Standard, in its entirety.]

* * * * *

1.7 Nonstandard Fees

Except for oversized priced parcels, a Parcel Select Destination Entry or USPS Connect Local piece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

* * * * *

[Revise the text of items g and h to read as follows:]

g. Shipping Services file manifests or other approved electronic documentation must include the extra service code (ESC) for the characteristics category (see 201.7.6.2).

h. Mailers of parcels requiring the characteristics extra service code (ESC) under 1.7g and have a Shipping Services file manifest or other approved electronic documentation, that do not meet the requirement to include the ESC will be assessed the Dimension Noncompliance fee under 1.8.

1.8 Dimension Noncompliance Fee

[Revise the first sentence of 1.8 to read as follows:]

Mailers of Parcel Select parcels are required to include the parcel's dimensions (length, width, height), and when applicable the characteristics ESC (see 1.7g), in the Shipping Services file manifest or other approved electronic documentation or will be assessed the Dimension Noncompliance fee (see Notice 123—Price List) if the parcel's dimensions or ESC are omitted or inaccurate. ***

[Add a note to the end of 1.8 that reads as follows:]

Note: Mailers of Parcel Select parcels will continue to be charged the Dimension Noncompliance fee for parcels that exceed 1 cubic foot or 22 inches in length if the parcel's dimensions are omitted or inaccurate in the Shipping Services file manifest or other approved electronic documentation until implementation of the ''Parcel Dimension Compliance'' initiative phase two.

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280 Commercial Mail USPS Ground Advantage—Commercial

283 Prices and Eligibility

1.0 Prices and Fees

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1.4 Dimensional Weight Price for Low-Density Parcels

* * * * *

[Delete 1.4.4, Dimensional Weight Pricing Dimension Standard, in its entirety.]

* * * * *

1.7 Nonstandard Fees

Except for oversized priced parcels and USPS Ground Return service parcels, a USPS Ground Advantage—Commercial piece is subject to a nonstandard fee (see Notice 123–Price List) as follows:

* * * * *

[Revise the text of items g and h to read as follows:]

g. Shipping Services file manifests or other approved electronic documentation must include the extra service code (ESC) for the characteristics category (see 201.7.6.2).

h. Mailers of parcels requiring the characteristics extra service code (ESC) under 1.7g and have a Shipping Services file manifest or other approved electronic documentation, that do not meet the requirement to include the ESC will be assessed the Dimension Noncompliance fee under 1.8.

1.8 Dimension Noncompliance Fee

[Revise the first sentence of 1.8 to read as follows:]

Except for USPS Ground Advantage Return service pieces, mailers of USPS Ground Advantage—Commercial parcels are required to include the parcel's dimensions (length, width, height), and when applicable the characteristics ESC (see 1.7g), in the Shipping Services file manifest or other approved electronic documentation or will be assessed the Dimension Noncompliance fee (see Notice 123—Price List) if the parcel's dimensions or ESC are omitted or inaccurate. ***

[Add a note to the end of 1.8 that reads as follows:]

Note: Mailers of USPS Ground Advantage parcels will continue to be charged the Dimension Noncompliance fee for parcels that exceed 1 cubic foot or 22 inches in length if the parcel's dimensions are omitted or inaccurate in the Shipping Services file manifest or other approved electronic documentation until implementation of the

''Parcel Dimension Compliance'' initiative phase two.

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–06223 Filed 3–30–26; 8:45 am]

BILLING CODE 7710–12–P

POSTAL REGULATORY COMMISSION

39 CFR Parts 3010 and 3012

[Docket No. RM2025–3; Order No. 9492]

RIN 3211–AA42

Rules Regarding Off-the-Record Procedures

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its rules of practice and procedure to clarify the scope of permissible informal, off-the-record procedures discussed at Commission prehearing conferences.

DATES: *Effective:* April 30, 2026.

ADDRESSES: For additional information, Order No. 9492 can be accessed electronically through the Commission's website at *https://www.prc.gov.*

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

SUPPLEMENTARY INFORMATION:

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I. Background
II. Basis for Final Rules
III. Final Rules

I. Background

The Commission's requirements for proceedings with an opportunity for a hearing on the record are codified in 39 CFR part 3010, subpart F. 39 CFR 3010.302(e)(12), which governs prehearing conferences, requires the presiding officer and parties to consider and resolve several matters, including ''[a]ll other matters which would aid in an expeditious disposition of the proceeding. . . .'' On February 5, 2026, the Commission issued a notice of proposed rulemaking that would amend § 3010.302(e)(12) and the Commission's rules on *ex parte* communications in 39 CFR part 3012.[1]

[1] Docket No. RM2025–3, Notice of Proposed Rulemaking to Amend Rules Regarding Off-the-Record Procedures at Prehearing Conferences, February 5, 2026 (Order No. 9447); *see* 91 FR 5880 (February 10, 2026).

II. Basis for Final Rules

After considering comments received, the Commission adopts the rules as proposed. The final rules amend § 3010.302(e)(12) by specifying a non-exhaustive list of permissible informal, off-the-record procedures including prehearing conferences, technical conferences, settlement conferences, and alternative dispute resolution. The final rules also clarify that these informal, off-the-record procedures are not considered *ex parte* communications as long as advance public notice and an opportunity to participate is provided to all persons participating in the matter before the Commission. The Commission finds that each of these revisions align the regulations with Administrative Procedure Act provisions and current law, ensure consistency across the Commission's rules, and avoid any ambiguity regarding on-the-record proceedings.

III. Final Rules

The Commission adopts final rules in order to improve the clarity of its rules governing permissible informal, off-the-record procedures discussed at Commission prehearing conferences.

List of Subjects

39 CFR Part 3010

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

39 CFR Part 3012

Administrative practice and procedure, Courts.

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3010—RULES OF PRACTICE AND PROCEDURE

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

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

■ 2. Amend § 3010.302 by revising paragraph (e)(12) to read as follows:

§ 3010.302 Prehearing conferences.

* * * * *

(e) * * *

(12) All other matters which would aid in an expeditious disposition of the proceeding, including consent of the parties to use informal off-the-record procedures such as prehearing conferences, technical conferences, settlement conferences, or alternative dispute resolution consistent with 5 U.S.C. 556.

* * * * *

PART 3012—EX PARTE COMMUNICATIONS

■ 3. The authority citation for part 3012 continues to read as follows:

Authority: 39 U.S.C. 404(d)(5); 503; 504; 3661(c); 3662.

■ 4. Amend § 3012.2 by revising paragraph (b)(3) to read as follows:

§ 3012.2 Definition of ex parte communications.

* * * * *

(b) * * *

(3) Communications where advance public notice and an opportunity to participate is provided to all persons participating in the matter before the Commission that occur: during the course of off-the-record technical conferences associated with a matter before the Commission, or communications during the course of off-the-record procedures associated with proceedings with an opportunity for a hearing on-the-record under part 3010, subpart F of this chapter, including without limitation the pre-filing conference for nature of service cases required by § 3020.111 of this chapter; prehearing conferences conducted under § 3010.302(c) of this chapter; settlement conferences under § 3010.320 of this chapter; and alternative dispute resolution and settlement of complaints by informal procedures under § 3022.40 of this chapter.

* * * * *

By the Commission.

Mallory S. Richards,

Attorney-Advisor.

[FR Doc. 2026–06176 Filed 3–30–26; 8:45 am]

BILLING CODE 7710–FW–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 27, and 90

[WT Docket No. 24–99; FCC 26–9; FR ID 338008]

Review of the Commission's Rules Governing the 896–901/935–940 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) continues its

efforts to expand broadband access in the 896–901/935–940 MHz band. This *Report and Order* now makes broadband available across all ten megahertz of this band. This *Report and Order* creates three options for 900 MHz licenses: a narrowband license; paired three-megahertz channels, called 3/3 broadband licenses: and paired five-megahertz channels, called 5/5 licenses.

DATES: This final rule is effective April 30, 2026.

FOR FURTHER INFORMATION CONTACT: Morgan Mendenhall of the Wireless Telecommunications Bureau, at *Morgan.Mendenhall@fcc.gov* or 202–418–0154.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in WT Docket 24–99, FCC 26–9, adopted on February 18, 2026, released on February 19, 2026. The full text of this document is available for public inspections and can be downloaded at *https://www.fcc.gov/document/fcc-expands-broadband-spectrum-opportunities-900-mhz-band-0.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

Synopsis

I. Introduction

1. In this *Report and Order,* we maximize the potential of the 896–901/935–940 MHz band (900 MHz band) by enabling broadband deployment on all ten megahertz of the band. The adopted rules allow for eligible existing 900 MHz licensees to transition to a paired five-megahertz broadband channel license (5/5 broadband license). The revised 900 MHz regulatory framework also provides opportunities to maintain narrowband and paired three-megahertz broadband segment uses in the band to meet the needs of incumbents. The *Report and Order* builds upon the Commission's previous efforts to realign the band for paired three-megahertz broadband channel licenses through a market-driven transition.

2. Under these rules, the 900 MHz band can be used in a given county in any of three configurations: (1) a ''legacy'' configuration consisting of ten megahertz of 12.5 kHz frequency pairs grouped into ten-channel blocks that alternate between the Specialized Mobile Radio (SMR) and site-based Business and Industrial/Land Transportation (B/ILT) services; (2) one six-megahertz broadband segment consisting of two paired three-megahertz channels and two narrowband segments with a total of 159 narrowband channels; or (3) ten megahertz of broadband consisting of two paired five-megahertz channels and no reserved narrowband channels.

3. The legacy configuration comprises 20 wideband channels interleaved with 200 narrowband channels. More specifically, the legacy configuration consists of ten megahertz of 399 narrowband (12.5 kilohertz) frequency pairs grouped into 10-channel blocks that alternate between SMR blocks that are site-based or geographically licensed by Major Trading Area and B/ILT blocks in which channels are assigned on a site-by-site basis. The licensee may use the wideband channels in a narrowband configuration or may combine contiguous channels to create one or more wideband channels. Although these channels are predominantly used in narrowband configurations at this time, their use in a wideband configuration would likewise be maintained under the legacy configuration. Any references to maintaining narrowband operations or opportunities herein should therefore be read as inclusive of maintaining the use of wideband channels under the legacy configuration.

II. Background

A. Allocation and Use

4. *900 MHz Band.* The 900 MHz band is currently allocated for Fixed, Land Mobile, and Mobile Except Aeronautical Mobile. Specifically, the 897.5–900.5/936.5–939.5 MHz portion of the band—commonly referred to as the 3/3 900 MHz broadband segment—is allocated on a co-primary basis for Fixed and Mobile Except Aeronautical Mobile and is governed by parts 27 and 90 of the Commission's rules. The 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band—also referred to as the narrowband segments—are allocated on a co-primary basis for Fixed and Land Mobile and are governed by part 90 of the Commission's rules.

5. *Adjacent Bands.* The 900 MHz band is situated immediately above spectrum that is divided between the commercial Air-Ground Radiotelephone Service, which uses the 894–896 MHz segment as the downlink for high-speed communications services to the public onboard aircraft, and common carrier and private fixed point-to-point links in the 932.5–935 MHz segment. The 900 MHz band is immediately below the Narrowband Personal Communications Service (Narrowband PCS), which uses spectrum at 901–902/940–941 MHz, most commonly for two-way paging and telemetry. The Table of Frequency Allocations also indicates limited adjacent federal spectrum use.

B. Procedural History

6. *900 MHz Licensing Freeze.* In 2018, the Wireless Telecommunications Bureau (Bureau or WTB) announced a freeze on the acceptance of applications for new or expanded 900 MHz band operations in order to maintain a stable spectral landscape while the Commission determined how to proceed with respect to the band. WTB modified the freeze in 2019 to permit incumbents to exchange frequencies at the same location (*i.e.,* acquire proposed narrowband segment frequencies to replace proposed vacated broadband segment frequencies), provided that the modification did not increase that incumbent's net number of licensed frequencies. In 2020, the Commission partially lifted the freeze to permit covered incumbents to file applications to relocate their operations to different frequencies or locations and transition 900 MHz narrowband operations.

7. *2020 Report and Order.* In the *3/3 900 MHz Report and Order,* the Commission realigned the 900 MHz band to make available six of the band's ten megahertz for the deployment of broadband services and technologies. Although the Commission had sought comment on establishing a paired 5/5 broadband segment, it found that adopting a paired 5/5 broadband segment was premature and that the public interest would be best served by providing 900 MHz licensees with the option of continuing long-standing narrowband operations. The Commission stated that it would monitor the progress of 3/3 broadband deployments and any continuing narrowband requirements before addressing whether future authorization of a 5/5 broadband segment is in the public interest.

8. To facilitate a rapid transition to 3/3 broadband deployment, the *3/3 900 MHz Report and Order* established a negotiation-based mechanism that, where private agreements are reached, would make available on a county-by-county basis six megahertz of low-band spectrum for the development of broadband technologies and services, while reserving the remaining four megahertz of the band for continued narrowband operations. The Commission implemented a framework whereby it would issue new 3/3 broadband licenses to applicants meeting certain eligibility requirements. The Commission also created rules that permit a 900 MHz broadband licensee to

relocate mandatorily a limited percentage of covered incumbents—except those with complex systems—from the new broadband segment by paying reasonable relocation costs, including providing comparable facilities. In addition, the Commission adopted operational and technical rules to minimize harmful interference to narrowband operations. The Commission also issued the accompanying *Order of Proposed Modification* related to AAR's 900 MHz nationwide ribbon license to prevent disruptions to the railways, enhance rail safety, and fully clear a virtually nationwide incumbent from the 3/3 broadband segment.

9. *Petition for Rulemaking.* On February 28, 2024, ten entities filed a petition for rulemaking (Petition) asking the Commission to adopt a framework that would increase the existing broadband allocation in the 900 MHz band by providing an option for 5/5 broadband networks in the band. Under their proposed plan, Petitioners maintained that narrowband incumbents would remain protected under the existing framework in the Commission's rules and would only vacate an existing narrowband segment to allow 5/5 broadband operations if the relevant parties made a private agreement to do so. Petitioners suggested that no changes are necessary to the current harmful interference, technical, or performance requirement rules to implement 5/5 broadband operations. Likewise, Petitioners proposed that, as with the current rules, the licensee of an authorization for a 5/5 broadband segment could be required to make any necessary anti-windfall payments to the general fund of the U.S. Treasury.

10. *WTB Public Notice.* On April 2, 2024, WTB sought comment on the Petition and the request that the Commission provide an option for 5/5 broadband networks in the 900 MHz band through a voluntary transition process. In particular, WTB sought comment on whether existing rules would be sufficient to protect incumbent narrowband operations from harmful interference, as well as whether those rules would be sufficient to protect operations in adjacent spectrum bands. The Commission received 31 comments and reply comments and 16 *ex parte* filings. Commenting parties generally support the proposal, noting the benefits that additional broadband could bring to licensees in the band, including increasing the use of standard Long Term Evolution (LTE) and 5G technologies and allowing for potential new use cases, such as smart-grid technologies.

11. *5/5 900 MHz Notice of Proposed Rulemaking.* On January 16, 2025, the Commission released the *5/5 900 MHz NPRM,* which sought comment on a proposed voluntary, negotiation-based process to transition the entire ten megahertz in the 900 MHz band for broadband. The proposal would allow the entire band to transition to broadband in counties where a prospective broadband licensee and incumbent licensees reach private agreements to do so. In counties where no such agreement was reached, the proposed framework would maintain the option of narrowband or six-megahertz broadband segment operations pursuant to the legacy and 3/3 configurations to meet the needs of incumbents in the band. Specifically, the Commission sought comment on whether the rules governing the 3/3 broadband segment—including eligibility criteria, application requirements and procedures, licensing and operating rules, and technical requirements—would be appropriate for effectuating a ten-megahertz broadband licensing framework. The Commission proposed that the 900 MHz band would have three options, depending on the license(s) held and the state of transition of the band in a particular county: (1) continued narrowband operations across the band; (2) continued narrowband operations in the narrowband segments (896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz) and broadband operations in the 3/3 broadband segment (897.5–900.5/936.5–939.5 MHz); or (3) broadband operations throughout the entire 900 MHz band. Finally, the Commission sought comment on whether the Commission should continue the 900 MHz band freeze and, in an order accompanying the *5/5 900 MHz NPRM,* the Commission delegated authority to WTB to modify or terminate the freeze.

12. *Record.* The Commission received 21 comments, 10 reply comments, and 13 *ex parte* filings from utilities, railroad industry stakeholders, equipment manufacturers, and critical infrastructure organizations. Several commenters support the Commission's proposal to transition to a 5/5 MHz broadband band plan, emphasizing that it is vital for utilities and critical infrastructure sectors to meet increasing demands for secure, private wireless networks capable of supporting advanced telecommunications needs and innovative applications. Anterix and various utility stakeholders underscore the necessity of maintaining narrowband options and voluntary transitions without mandatory relocations. Stakeholders including the Edison Electric Institute (EEI) and Lower Colorado River Authority (LCRA) highlight the potential benefits of the proposed 5/5 MHz allocation, particularly for enhancing mission-critical communications, grid modernization efforts, and security.

13. In contrast, some commenters raise concerns with the prospect of 5/5 broadband licenses in the 900 MHz band. AAR expresses unease regarding the impact of the proposed broadband expansion on railroad communications and emphasizes the need for railroads to transition out of the band altogether in order for the 5/5 expansion to proceed. AAR notes the significant financial and operational burdens associated with its ongoing relocation of existing narrowband operations, and it estimates relocation costs upwards of $41 million, and an additional $69 million for implementing next-generation services. In a reply jointly filed by AAR and the American Short Line and Regional Railroad Association (ASLRRA), AAR and ASLRRA urge the Commission not to finalize the rule without providing equivalent spectrum for the railroads to continue operations (configured by the Commission into a single nationwide geographic ribbon license), full compensation for transition costs, and reasonable timelines for implementation, plus a 20-year guarantee against further relocation. Ondas and Siemens also express concerns about the potential impact of a 5/5 broadband license option on railroad operations. Adjacent band users Gogo Business Aviation LLC (Gogo) and Space Data Corporation (Space Data) raise concerns about the effects of 5/5 broadband on their operations.

III. Discussion

A. Enabling Increased Broadband Deployment in the 900 MHz Band

14. Through this *Report and Order,* the Commission enables broadband on all ten megahertz of the 900 MHz band, providing enhanced spectrum capacity to meet a wider range of broadband needs. We adopt a negotiation-based mechanism that, where private agreements are reached, will make available on a county-by-county basis a full ten megahertz of spectrum for the deployment of broadband technologies and services. The expansion adopted today has strong support from the enterprise community and energy utilities that have been the predominant users of narrowband spectrum in the 900 MHz band and are increasingly

transitioning to 900 MHz broadband networks.

15. The successful transition of the band to accommodate a 3/3 broadband segment demonstrates the significant demand for leveraging underutilized 900 MHz spectrum for broadband technology. Implementation of the 3/3 transition has been underway since 2021 and has resulted in the deployment of private wireless broadband networks in the 900 MHz band across 23 states. In fact, 900 MHz broadband spectrum has been so highly sought after that Anterix and a number of utilities with broadband networks petitioned the Commission, requesting the removal of regulatory barriers to deploy broadband across the entire ten megahertz in the band. Many commenters express enthusiasm for the Commission's proposal to allow for broadband across the full ten megahertz of the 900 MHz band. Commenters suggest that increasing broadband opportunities would provide utilities and other enterprise entities with the spectrum needed for higher speed and lower latency networks that have the ability to support known and yet-to-be-identified use cases.

1. Band Realignment To Create a 5/5 900 MHz Broadband Segment on a County-by-County Basis

16. We find it in the public interest to adopt the proposal to amend the Commission's rules and expand the existing 900 MHz broadband allocation to the full ten megahertz of spectrum. This revised allocation will enable paired five-megahertz channels at 896–901/935–940 MHz on a county-by-county basis. The transition to 5/5 broadband will be optional and in a manner that ensures the protection of incumbent and adjacent band licensees. We conclude that our action furthers important goals of the Communications Act of 1934, as amended (the Act), including improving the efficiency of spectrum use. Specifically, we believe that expansion of the broadband capacity available can address the critical demand and growing need for private broadband networks in the 900 MHz band, allowing users to leverage broadband capacity for more advanced and robust networks. We further conclude that the flexible use of the 900 MHz band remains appropriate under section 303(y) of the Act.

17. We acknowledge the concerns expressed by commenters regarding the impact of a 5/5 900 MHz option on the railroads' ongoing deployment of mission-critical safety applications in their nationwide license in the narrowband segments (at 896–896.125/935–935.125 MHz). Further, some commenters urge that final rules for the 5/5 broadband segment ''should not be adopted until broadband licensees and incumbents reach agreements that include specific, necessary assurances.'' We find it impractical to delay the adoption of this *Report and Order* for private party negotiations, and decline to do so. We note that the Commission's actions here remove the regulatory barriers that have made a 5/5 broadband license an impossibility. We also make clear that all 5/5 broadband license acquisitions and exchanges in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band—referred to as the narrowband segments in the 3/3 configuration—will be completely voluntary and market-driven.

18. The record shows that expansion of the 900 MHz broadband allocation will continue to encourage innovation and stimulate investment in new wireless technologies available to utilities, critical infrastructure organizations, and other users of private broadband networks. It will create additional market-driven opportunities for robust broadband networks that fully support critical communication systems and aid in ensuring the low latency and ultra-high reliability required by electric and other utilities while maintaining the narrowband option for B/ILT and SMR spectrum users. The expansion will facilitate services and applications, such as broadband data, voice services, text messaging, push-to-talk, and the capability to handle communications from large numbers of small Internet of Things (IoT) devices like sensors and actuators.

19. Going forward, 900 MHz licensees will have three options for utilizing spectrum, depending on the license held and the state of transition of the band in a particular county: (1) continued narrowband operations across the band; (2) continued narrowband operations in the narrowband segments (896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz) and broadband operations in the 3/3 broadband segment (897.5–900.5/936.5–939.5 MHz) on a county-by-county basis; or (3) broadband operations throughout the entire band on a county-by-county basis.

20. We conclude that it is in the public interest to follow a county-by-county approach to the transition to 5/5 broadband, and that all three band configurations can successfully coexist in adjacent counties, supported by geographic and other interference protection provisions and the transition plans required to obtain a broadband license. Commenters widely support the option for 5/5 broadband on a county-by-county basis. For example, LCRA strongly believes that it is possible for long-standing narrowband operations to continue under the proposed realignment because the transition will be entirely voluntary and only in those markets where all affected parties have reached agreement. As LCRA notes, a county-by-county transition scheme has enabled utilities to obtain 3/3 900 MHz broadband licenses and has facilitated the relocation of narrowband incumbents to appropriate alternative spectrum. Under the rules we adopt today, any transition to 5/5 broadband licenses may only take place after all relevant licensees reach agreements to minimize disruption to services, maintain key safety operations, and establish appropriate interference protection. Further, it will facilitate compliance to follow the path established with the transition to 3/3 broadband licenses in the band. Likewise, as discussed in further detail in III.C.1., to adopt an inconsistent geographic area could create unnecessary hurdles to 5/5 broadband deployment, such as those caused by overlapping license areas.

21. *Adjacent Band Coexistence.* Some commenters raise concerns about how the Commission will ensure that Air-Ground Radiotelephone Service and Narrowband PCS operations are protected from 5/5 broadband operations. Such concerns are addressed in greater detail below, but in short, the technical and operational rules adopted herein have been designed to promote effective coexistence between any new 5/5 900 MHz broadband operations and neighboring incumbents.

22. *In Band Coexistence.* We conclude that it is possible for long-standing narrowband operations to both coexist and, if permitted under the freeze, expand operations alongside 5/5 broadband operations in neighboring counties. The technical rules adopted today are designed to prevent harmful interference between users of the 900 MHz band, as well as between users of the 900 MHz band and users of adjacent bands. Balancing the operational requirements of both broadband and narrowband users in the 900 MHz band has been successfully underway for several years. Nevertheless, should harmful interference occur, both the narrowband incumbent and the broadband segment licensee will be required to work in good faith to resolve such interference issues.

23. *Revised Allocation.* We allocate the entire 896–901/935–940 MHz band as Mobile Except Aeronautical Mobile

Service and remove the Land Mobile allocation. We retain the co-primary ''Fixed'' allocation. This allocation allows for all three configurations of the band. Depending on the status of the band in a given county, service and technical rules will support continued narrowband operations either across the band or in the narrowband segments of the 3/3 configuration. The Mobile Except Aeronautical Mobile Service allocation enables continued narrowband operations, where applicable, because Mobile encapsulates Maritime Mobile, Aeronautical Mobile, and Land Mobile. More specifically, we designate 896–901/935–940 MHz as a Miscellaneous Wireless Communications Service governed by part 27 of the Commission's rules and include informational references to ''Wireless Communications (27)'' and ''Private Land Mobile (90)'' in the Table of Frequency Allocations. We also update US footnotes 116 and 268 in the Federal Table so the references in the two footnotes are consistent with the revised allocation we adopt today.

2. Negotiation-Based Transition

24. A market might transition to a 5/5 broadband license configuration in one of two ways: either from a legacy 900 MHz band plan configuration or from a 3/3 broadband configuration. In either case, the transition of narrowband operations in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band—the narrowband segments in the 3/3 configuration—must be completely voluntary. In contrast, if a certain threshold is met, a prospective 5/5 broadband licensee may invoke mandatory relocation in the 897.5–900.5/936.5–939.5 MHz portion of the band—the broadband segment in the 3/3 configuration. We conclude that it is in the public interest to adopt the proposal to authorize a market-driven, voluntary exchange process whereby the 5/5 900 MHz broadband license could be obtained from the Commission after private negotiations between the prospective 5/5 broadband licensee and all relevant incumbents. This method builds on the successful track record of the 3/3 transition.

25. Commenters overwhelmingly support a voluntary relocation process for transitioning the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band—the narrowband segments in the 3/3 configuration—to a 5/5 broadband segment, with minimal exceptions. Anterix highlights that the 900 MHz band transition is unique in that no third party oversight and adjudication has been necessary here and band clearing is completed in a reasonable amount of time based on mutually agreeable negotiated terms. Commenters call ''[t]his voluntary, cost-saving approach to spectrum allocation . . . a hallmark of good policymaking'' and believes that ''through market-based, arms-length negotiations, the parties involved will be able to reach mutually agreeable terms to create a public good—a win-win-win outcome.'' Other commenters agree on the importance of a voluntary framework and express that it should be a key feature of the rules.

26. Regardless of the initial configuration of the band in a particular county, we allow prospective 5/5 broadband licensees to invoke mandatory relocation of incumbents in the 897.5–900.5/936.5–939.5 MHZ portion of the band, consistent with the rights of 3/3 broadband licensees. Under the current rules for 3/3 licenses, an applicant can receive a 3/3 broadband license in a county only if it (1) holds spectrum in the broadband segment, (2) agrees to relocate, or acquire spectrum held by, covered incumbents, and/or (3) demonstrates how it will provide interference protection to covered incumbents' operations collectively totaling at least 90% of the impacted site-based and geographically licensed channels in the broadband segment. With respect to incumbent licensees in channels that did not contribute to the 90% eligibility threshold, a 3/3 broadband licensee then has the right to invoke mandatory relocation from the broadband segment both of covered incumbents' remaining site-based channels in a given county and within 70 miles of the county boundary, and of geographically licensed channels where the license area completely or partially overlaps the county, with an exception for complex systems. We find that, in the interests of fairness, a 5/5 broadband applicant starting from the legacy configuration should not be disadvantaged vis-à-vis a 5/5 applicant that holds a 3/3 broadband license. Thus, a 5/5 broadband applicant that does not currently hold a 3/3 broadband license may invoke mandatory relocation of covered incumbents in the 897.5–900.5/936.5–939.5 MHz portion of the band consistent with the 3/3 broadband segment mandatory relocation rules.

27. We find it in the public interest to adopt a completely voluntary transition for the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band (referred to as the narrowband segments in the 3/3 configuration), consistent with the Commission's proposal and the feedback of the majority of commenters in this proceeding. A 5/5 broadband applicant must negotiate a full, voluntary clearing or protection of all incumbents in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band. While San Diego Gas & Electric (SDG&E) argues that mandatory relocation is appropriate because it ''ensure[s] that the expanded 5/5 MHz broadband transition is completed expeditiously and efficiently'' and ''disincentivize[s] unnecessary incumbent holdouts,'' we decline to deviate from the Commission's proposal to solely establish voluntary relocation in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band (referred to as the narrowband segments in the 3/3 configuration).

28. In addition, to reflect the existence of both the 3/3 and 5/5 broadband segments in the 900 MHz band, we adopt a revised definition of ''covered incumbents.'' The revised definition will read as follows: ''Any 900 MHz site-based licensee in the 900 MHz band that is required under § 90.621(b) of this chapter to be protected by a 3/3 or 5/5 900 MHz broadband licensee (as applicable) with a base station at any location within the county, or any 900 MHz geographic-based SMR licensee in the 3/3 MHz broadband segment or 5/5 900 MHz frequency range, as applicable, whose license area completely or partially overlaps the county.''

29. AAR currently holds a nationwide ribbon license for use of a paired wideband 125-kilohertz channel at 896–896.125/935–935.125 MHz. The frequency range for this AAR nationwide ribbon license is within the 896–897.5/935–936.5 MHz portion of the band—the first of the two narrowband segments in the 3/3 configuration—and, as such, the license can be moved as a result of a voluntary negotiation but mandatory relocation of this license is prohibited. This nationwide ribbon license covers a 140-mile wide swath of the railroad rights-of-way across a majority of CONUS. We believe that there is a clear benefit in removing the regulatory barriers and enabling broadband on all ten megahertz of the 900 MHz band. The rules we adopt today leave it up to the marketplace to determine which licensees, including AAR, may or may not be relocated. If incumbent holdings prevent the creation of a 5/5 broadband license, the existing 900 MHz operations can continue in the legacy or 3/3 broadband configuration of the band. We conclude that it is in the public interest for the Commission to adopt a framework that would allow the

transition of the entire 900 MHz band to broadband.

3. Eligibility for a 5/5 900 MHz Broadband License

30. To effectuate the framework we are adopting today, we conclude that the eligibility requirements for a 5/5 broadband license will largely mirror the eligibility requirements for a 3/3 broadband license, with a few distinctions. This framework is supported by commenters, who generally believe that the existing 3/3 requirements have functioned well in advancing the 3/3 broadband transition.

31. The eligibility rule that we adopt for a 5/5 broadband license has three elements. Specifically, we adopt the proposal that in order for an applicant to be eligible for a 5/5 broadband license in a given county, it must: (1) hold the licenses for more than 50% of the total amount of licensed 900 MHz spectrum—900 MHz SMR (site-based or geographically licensed), B/ILT (site-based), or 3/3 900 MHz broadband spectrum—for the relevant county, including credit for spectrum included in an application filed with the Commission to relocate, cancel the license of, or acquire spectrum held by, covered incumbents; (2) demonstrate that, as it pertains to the 897.5–900.5/936.5–939.5 MHz portion of the band, the prospective licensee either: (a) holds a 3/3 broadband license in the relevant county; or (b) itself holds, or has reached an agreement to clear through acquisition of spectrum, cancellation of licenses, or relocation of covered incumbents, or has demonstrated how it will provide harmful interference protection to, 90% or more of covered incumbents' site-channels in that portion of the band in the county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county; and (3) demonstrate that, as it pertains to the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band, it holds the licenses or has reached an agreement to clear all covered incumbent licenses through acquisition, cancellation, or relocation or demonstrates how it will provide harmful interference protection to all covered incumbent licensees collectively holding licenses in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band (narrowband segments in the 3/3 configuration) in the county and within 70 miles of the county boundary and holding geographically licensed channels where the license area completely or partially overlaps the county.

32. *First Element: 50% Threshold.* A 5/5 broadband applicant can rely on either its 3/3 broadband license or its 900 MHz SMR and B/ILT spectrum to meet the 50% threshold in the relevant county. The key difference between the 5/5 and 3/3 900 MHz broadband opportunities is that the starting point for a 5/5 license may be either the legacy configuration or a 3/3 broadband segment configuration. This difference is reflected in the way the 50% threshold eligibility rule is framed. Several commenters express their support for this slight variation between the 3/3 and 5/5 eligibility requirements. Commenters support this framework, which would permit a 3/3 broadband licensee to be eligible to meet the 50% spectrum threshold in a relevant county. Allowing a 5/5 broadband applicant to meet this specific eligibility requirement by holding a 3/3 broadband license will ensure that an existing 3/3 broadband licensee may expand its broadband operations if it otherwise meets the eligibility criteria. However, we do not require a sequential process whereby a prospective 5/5 broadband applicant would first be required to obtain a 3/3 broadband license. We agree with Anterix that requiring a 3/3 broadband license as a prerequisite would be inefficient and delay overall deployment of broadband facilities.

33. *Second Element regarding the 897.5–900.5/936.5–939.5 MHz portion of the band.* The second element of eligibility requires that a prospective 5/5 broadband licensee either hold a 3/3 broadband license, control (via direct holding of licenses or negotiated relocation), or provide protection for at least 90% of the licensed spectrum in the 897.5–900.5/936.5–939.5 MHz portion of the band, measured by site-channels. The provisions for the 90% threshold are identical to the corresponding 3/3 broadband licensing rules—the prospective 5/5 licensee can hold spectrum directly, or reach an agreement with covered incumbents in the 897.5–900.5/936.5–939.5 MHz portion of the band to acquire spectrum held by or protect covered incumbents. This element also provides for limited instances of mandatory relocation.

34. *Third Element regarding the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band.* This third element requires that a prospective 5/5 broadband licensee either hold licenses in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band or reach agreements with covered incumbents in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band to facilitate 5/5 broadband operations in the band. The key difference between the second and the third element—other than the frequency range—is that the prospective broadband licensee may not invoke mandatory relocation in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band. [The 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band are also commonly referred to as the narrowband segments of the band in the 3/3 configuration.]

35. *Cancellation.* For the most part, the second and third elements of the eligibility rule we adopt today mirror the 3/3 broadband segment license eligibility rule. One difference between the existing 3/3 eligibility rule and the 5/5 eligibility rule we adopt today is the inclusion of license cancellation in the second and third elements. Numerous commenters express their support for this additional transition mechanism. We agree that there are benefits to this approach and add ''cancellation'' to the list of clearing mechanisms for both the 3/3 and the 5/5 broadband licenses. This will provide 900 MHz broadband applicants with an additional negotiation mechanism to clear a covered incumbent in the relevant county, whereby the incumbent could agree to cancel its 900 MHz license(s) in lieu of selling the license(s) or relocating.

36. *Generally.* In addition, we take this opportunity to make non-substantive editorial changes to the rules adopted by the Commission in the *3/3 900 MHz R&O* and to the rules proposed in the *5/5 900 MHz NPRM.* No substantive change is intended or should result from the revisions; the changes serve to provide further clarity and consistency in the rules. Because these editorial changes are non-substantive, they have no impact on regulated entities or the public, and we find good cause that notice and comment are unnecessary pursuant to 5 U.S.C. 553(b)(B).

4. Application Requirements and Procedures for a 5/5 900 MHz Broadband License

37. We conclude that 5/5 broadband applicants will be required to submit an Eligibility Certification and Transition Plan in their application, a process similar to the existing requirements for 3/3 broadband licenses. The Commission will require the 5/5 broadband license applicant to submit in its Eligibility Certification and Transition Plan all information necessary to determine the validity of

the applicant's eligibility, including information necessary to assess its ability to acquire spectrum from, cancel licenses of, relocate, or protect covered incumbents, which will be used to determine whether grant of a 900 MHz broadband license is in the public interest.

38. Some commenters note that imposing stricter requirements on 5/5 broadband licensees, such as requiring a 5/5 applicant to first obtain a 3/3 license or requiring an increased spectrum threshold for eligibility, would ''run counter to the Commission's goal . . . of ensuring the band is efficiently and intensively utilized and that the increasing spectrum capacity and private broadband network needs of industries, such as utilities, railroads, critical infrastructure, and business enterprises, are met.'' We agree that obtaining a 5/5 broadband license, whether by applying for the first time or expanding a current 3/3 system, should be a ''simple, streamlined, and efficient'' process.

39. *Eligibility Certification Requirements.* We adopt the proposal, with minor modifications, that a 5/5 broadband license application must include an Eligibility Certification that, at a minimum, shows that: (1) the applicant holds the licenses for more than 50% of the total amount of licensed 900 MHz spectrum for the relevant county; (2) as it pertains to the 897.5–900.5/936.5–939.5 MHz portion of the band, the prospective licensee either: (a) holds a 3/3 broadband license in the relevant county, or (b) itself holds, or has reached an agreement to clear through acquisition, cancellation, or relocation, or has demonstrated how it will provide harmful interference protection to 90% or more site-channels held by covered incumbents collectively holding licenses in the 3/3 broadband segment in the county and within 70 miles of the county boundary, and holding geographically licensed channels where the license area completely or partially overlaps the county; and (3) the applicant itself holds, or has either reached an agreement to clear through acquisition, cancellation, or relocation, or demonstrates how it will provide harmful interference protection to, all covered incumbent licensees collectively holding licenses in the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band in the county and within 70 miles of the county boundary and holding geographically licensed channels where the license area completely or partially overlaps the county.

40. We find that these eligibility requirements are best suited to facilitate a transition of the 900 MHz band to 5/5 broadband. As in the 3/3 broadband context, we conclude that the 50% threshold eliminates the potential filing of mutually exclusive applications and facilitates the opportunity for private agreements. The eligibility requirements also serve to identify the applicant best positioned to deploy a 5/5 broadband system in a timely fashion, and are therefore in the public interest. Additionally, we find it in the public interest to maintain the requirement for a 5/5 broadband applicant to reach agreements to clear through acquisition, cancellation, or relocation or to demonstrate how it will provide harmful interference protection to all covered incumbents. This requirement serves to protect covered incumbents in the band, while simultaneously providing an opportunity for market-based, arms-length transition negotiations, thereby maximizing innovation and diversity of spectrum uses in the band, consistent with the mandates of the Act.

41. *Transition Plan Requirements.* We require a 5/5 broadband license application to include a Transition Plan in which the applicant must show one or more of the following regarding covered incumbents holding site-based licenses in the 900 MHz band in the county and within 70 miles of the county boundary, and holding geographically licensed channels where the license area completely or partially overlaps the county: (1) agreement by covered incumbents to transition from the 900 MHz band, as applicable; (2) protection of site-based covered incumbents through compliance with minimum spacing criteria; (3) protection of site-based covered incumbents through new or existing letters of concurrence agreeing to lesser base station separations; (4) protection of geographically based covered incumbents through private contractual agreements; and/or (5) evidence that it holds licenses for the site-channels in the county and within 70 miles of the county boundary, and for geographically licensed channels where the license area completely or partially overlaps the county.

42. We require Transition Plans to describe in detail all information and actions necessary to accomplish the realignment to 5/5 broadband, as follows: (1) a description of the agreements reached with covered incumbents and the applications that the parties to the agreements will file for spectrum in the broadband and/or narrowband segments, as applicable, in order to relocate licensees (for covered incumbents relocating to new frequencies, the Plan should include the types of applications and specific frequencies); (2)(a) a description of how the applicant will provide harmful interference protection to, and/or clear through license cancellation, relocation, or acquisition of spectrum held by covered incumbents collectively holding licenses for at least 90% of site-channels in the 3/3 broadband segment and 100% of site-channels in the narrowband segments, as applicable, in the county and within 70 miles of the county boundary, and for geographically licensed channels where the license area completely or partially overlaps the county, and/or (b) evidence that it holds licenses for the relevant site-channels and/or geographically licensed channels; (3) any rule waivers or other actions necessary to implement an agreement with a covered incumbent; and (4) any other information required for the Commission to determine whether the grant of an application is in the public interest.

43. To demonstrate that the 5/5 broadband applicant will be able to effectuate the proposed transition and deploy 5/5 broadband operations while adequately protecting covered incumbents, we allow the applicant to include in its Transition Plan a certification from an FCC-certified frequency coordinator that the Transition Plan's representations can be implemented consistent with Commission rules. The frequency coordinator's certification must also establish that the proposed relocations consider all relevant covered incumbents and are consistent with the existing part 90 interference protection criteria if the covered incumbent is site-based, and include any private contractual agreements between the prospective broadband licensee and a geographically-licensed covered incumbent.

44. Finally, to increase administrative efficiency and reduce burdens, we allow a 5/5 900 MHz broadband applicant seeking to transition multiple counties simultaneously to file a single Transition Plan that covers all of its county-based applications. Commenters express their support for this efficiency enhancing measure. We believe that this process will streamline the overall transition, simplify filing requirements, and minimize administrative burdens.

45. In the *3/3 900 MHz R&O,* the Commission explained that a Transition Plan is necessary in order for the Commission to verify a 3/3 broadband applicant's eligibility, as it provides information necessary to assess the

applicant's ability to acquire spectrum from, relocate, or protect covered incumbents in the 3/3 broadband segment. We further explained that a Transition Plan requirement furthers the public interest by improving administrative efficiency and lowering the burden on small entities. Commenters express their support for extending this requirement to 5/5 broadband license applications. We find that requiring a Transition Plan, with the modifications described above, will achieve the same goal in the 5/5 broadband context, and that it is in the public interest to adopt a Transition Plan requirement for prospective 5/5 broadband licensees.

46. *Application Grant Procedures.* We adopt the proposal to commence the 5/5 broadband transition by issuing a public notice announcing the date that the Commission will begin accepting applications consistent with the eligibility and application requirements adopted herein, and delegate the authority to WTB to issue that public notice. Consistent with part 1 of the Commission's rules, an application for a 900 MHz broadband license will be placed on public notice for 30 days, during which time interested parties may file petitions to deny. After review of the required filings, if the Bureau finds that the applicant has satisfied the 5/5 broadband license requirements and that grant of the application is otherwise in the public interest, it will grant the application and issue a 5/5 broadband license. The timeline for complying with the applicable construction obligations will begin immediately upon grant of the new license.

B. Anti-Windfall Provisions

47. To alleviate the risk of an undue windfall to the prospective broadband licensee, we adopt the proposal to impose mandatory anti-windfall provisions for 5/5 broadband licenses. This requirement is similar to the 3/3 broadband provisions, with adjustments made for spectrum valuation and spectrum credits. Specifically, an applicant will be required to return all of its licensed 900 MHz SMR and B/ILT spectrum, as well as its 3/3 broadband license(s), if applicable, for any county in which it seeks a 5/5 broadband license, up to ten megahertz total. In instances where a prospective broadband licensee holds less than ten megahertz of spectrum and is thus unable to return the full ten megahertz, spectrum may be assigned from the Commission's available inventory for issuance of a broadband license if the applicant compensates the general fund of the U.S. Treasury via an anti-windfall payment as detailed herein. We believe that applying this anti-windfall requirement to the 5/5 broadband licenses is in the public interest, as it will act as payment for any spectrum provided by the Commission from its inventory and will mitigate any potential unearned benefit that a prospective 5/5 broadband licensee receives as a result of this exchange.

48. To date, the anti-windfall provisions for the 900 MHz 3/3 broadband transition have resulted in payments to the general fund of the U.S. Treasury of over $11,400,000 for over 370 applications. Commenters generally agree that the existing 3/3 anti-windfall rules have met the Commission's goal of ensuring that the U.S. taxpayers receive the appropriate value for the 900 MHz spectrum in the FCC's inventory, and there is support for the extension of these anti-windfall provisions in the 5/5 broadband transition. As commenters note, the anti-windfall provisions have ultimately delivered value to the general fund of the U.S. Treasury for spectrum that in many cases has been unused for decades. We agree that these provisions provide a benefit to the American public, while also providing fairness across the Commission's processes by ensuring that we do not provide free spectrum from the Commission's available inventory.

49. Some commenters, however, suggest that broadband licensees who have already invested in deploying 3/3 broadband spectrum should not be subject to further anti-windfall measures when expanding their operations into the 5/5 broadband segment and ''licensees may be discouraged from expanding broadband operations due to these potentially significant capital outlays.'' We are not persuaded by this argument against anti-windfall payments. An applicant that made previous anti-windfall payments when acquiring a 3/3 broadband license would have received the benefit of that investment. While there is some merit to the claim that mandatory anti-windfall payments may affect a licensee's decision to expand broadband operations, we find that such concerns do not justify, on balance, exclusion from the anti-windfall provision. We see no benefit to forgoing an anti-windfall provision for the remaining four megahertz of spectrum required to transition a 3/3 broadband license to a 5/5 broadband license. In contrast, we believe that the absence of such an anti-windfall provision could be perceived as a reward to applicants for simply pursuing a prior, optional spectrum transition in accordance with the Commission's rules. The anti-windfall provision, which we find will not be overly burdensome, serves to ensure that participants are engaged in the 5/5 broadband transition and are not receiving more spectrum with limited incentive to utilize it more efficiently.

50. *Spectrum Valuation Adjustment.* When the Commission established the 3/3 broadband anti-windfall provision, it opted to use the 600 MHz auction prices as the basis for 3/3 broadband license anti-windfall payment calculations. We conclude that the 600 MHz auction prices remain the best valuation source for anti-windfall payments for 900 MHz broadband licenses. We continue to find that 600 MHz and 900 MHz spectrum characteristics, including propagation characteristics, are sufficiently similar to justify application of 600 MHz auction prices to 900 MHz broadband license anti-windfall payments. Commenters are silent on the source of valuation.

51. Consistent with the Commission's proposal, we also make a one-time adjustment to the valuation of spectrum to account for the increased change in 900 MHz spectrum value since the *3/3 900 MHz R&O.* We believe that the best metric for determining the increased value is by adjusting the population estimates by using the 2020 census population data for each county instead of the 2010 data. While the *5/5 900 MHz NPRM* proposed to base the valuation adjustment on inflation, we find that the county population metric is more relevant to the value of the spectrum than an adjustment based on Consumer Price Index data or a similar inflation metric. There is support in the record for a one-time adjustment in spectrum valuation.

52. We believe that adjusting anti-windfall payments by the change in county-level population values provides the simplest method to increase anti-windfall payments over time, as this measure is county-specific and directly related to license values. The adjustment of the anti-windfall payment calculations shall apply to both the 5/5 broadband transition as well as the 3/3 broadband transition. We delegate authority to WTB to periodically make additional adjustments as necessary, after an appropriate notice and comment period, to account for changes in population estimates or other metrics that will more appropriately reflect spectrum valuation changes.

53. *Spectrum Credit.* The 5/5 licensing process will account for situations where an applicant for a 5/5 broadband license has already returned more than six megahertz of spectrum to the Commission to obtain a 3/3

broadband license. *In the 3/3 900 MHz R&O,* the Commission did not allow an applicant to receive anti-windfall credits for excess spectrum returned in exchange for a 3/3 broadband license. Since 2020, there have been a limited number of cases where the applicant surrendered more than six megahertz of narrowband spectrum to obtain a 3/3 broadband license. Anterix notes that the ''excess'' spectrum surrendered in those cases was not FCC inventory spectrum and argues that it therefore should be considered in calculating the windfall payment for a 5/5 broadband license in that county. We are persuaded that the provision of spectrum credit in limited circumstances, as described below, would allow the Commission to account for any spectrum that was relinquished in excess of the required six megahertz during the 3/3 broadband application process and to thereby take this spectrum into consideration when determining any anti-windfall payment to be assessed on a 3/3 broadband applicant for a subsequent 5/5 broadband license. We therefore conclude that it is in the public interest to allow for those applicants to receive a spectrum credit. Such spectrum credits will only be permitted in limited circumstances: the spectrum credits may only be used by the licensee that originally relinquished the spectrum and only during its application for a 5/5 broadband license. An applicant must note the previously relinquished spectrum during the 5/5 broadband application process for a given county, and the information provided will be verified by Commission staff. Should an applicant fail to include any potential spectrum credit during the 5/5 broadband application process for a given county, that applicant will surrender its claim to the benefit and will not be owed any payments in connection with the spectrum credit.

54. While we adopt the same basis for calculating the anti-windfall payment for a 5/5 broadband license as previously established in the *3/3 900 MHz R&O,* we apply the updated spectrum valuation adjustment and spectrum credit process adopted today. For purposes of the calculation, we first determine the spectrum deficit, which is the difference between the amount of spectrum, in kilohertz or megahertz, relinquished by the broadband license applicant in the relevant county, inclusive of spectrum credit(s), and the ten megahertz of spectrum required for a 900 MHz broadband license. Next, we calculate the dollars per MHz-pop prices for the 600 MHz auction based on the final forward auction prices for a generic ten megahertz license in each Partial Economic Area. We then multiply the spectrum deficit by the 2020 county population estimates and the calculated dollars per MHz-pop price of 600 MHz spectrum in the county to arrive at the anti-windfall payment for that county.

55. As part of its application process with the Commission, a broadband license applicant must make anti-windfall payments owed prior to the grant of 900 MHz broadband license(s). Currently, the process to determine and calculate anti-windfall payments is performed manually and requires significant effort from Commission staff. In order to alleviate administrative burdens, we direct the Bureau to automate the process of calculating and collecting anti-windfall payments to the extent possible. We further direct the Bureau to develop any processes necessary to implement that automation. With respect to the collection of the payment, we direct WTB to consult with the Office of the Managing Director to ensure compliance with government-wide payment processing rules.

56. We conclude that the Commission has broad spectrum management and licensing authority to require a mandatory anti-windfall payment for a 5/5 broadband transition, and that such measures are vital to the Commission's statutory obligation to grant licenses in the public interest. The Commission has repeatedly used this authority to impose conditions on new licensees, including relocation payments, buildout conditions, public safety obligations, and obligations to facilitate the transition of incumbents using the spectrum at issue before commencing operations. We also find that the anti-windfall payment is a necessary component of our exercise of statutory responsibility to grant an initial license under section 309 in accordance with the public interest, convenience, and necessity. It will enable the transition from narrowband to broadband licensing while ensuring that participants are actively engaged in this transition to increase efficient spectrum use and not merely acquiring more spectrum. No commenter addressed the Commission's legal authority to impose an anti-windfall payment.

C. Licensing and Operating Rules for 5/5 900 MHz Broadband Licenses

57. We designate the 896–901/935–940 MHz band as a Miscellaneous Wireless Communications Service governed by part 27 of the Commission's rules. The licensing and operating rules that apply to the 3/3 broadband licenses will also apply to the 5/5 broadband licenses. The 5/5 broadband segment will also be licensed geographically by county for 15-year initial terms with 10-year renewal terms. Commenters generally support this approach, which maintains simplicity and consistency. As discussed in greater detail below, we adopt specific performance provisions for 5/5 broadband licenses acquired in exchange for a 3/3 broadband license.

1. License Area

58. We find it in the public interest, as proposed in the *5/5 900 MHz NPRM,* to license all broadband operations in the 900 MHz band on a geographic-area basis by county, defined using the United States Census Bureau's data reflecting county legal boundaries and names valid through January 1, 2017. As noted in the *3/3 900 MHz R&O* and discussed earlier in this *Report and Order,* we believe that licensing broadband operations on a geographic-area basis by county will promote spectrum efficiency, expedite deployment of flexible-use services, and provide licensees with flexibility to quickly adjust and coordinate spectrum usage. Further, in the *3/3 900 MHz R&O,* the Commission concluded that counties represent an appropriate geographic area for 3/3 broadband licenses, and found that this would aid in fostering flexible and innovative use of the 900 MHz band and provide a consistent, relatively small license size appropriate for a wide range of possible network deployments. We continue to believe that the smaller license areas will stimulate investment, promote innovation, and encourage the efficient use of spectrum in the 900 MHz band. By using the 2017 Census Bureau boundaries for 5/5 broadband licenses, we maintain stability and continuity in licensing the 900 MHz band, both by ensuring that all 3/3 broadband licenses granted either prior to today's actions or subsequently will have the same landscape, and by ensuring that 5/5 broadband licensees seeking to provide service can build upon a 3/3 broadband base.

59. In response to the Petition, a commenter suggested that the Commission issue 5/5 broadband licenses as site-based licenses. The Commission sought comment on this proposal. No commenter expressed support for issuing 5/5 broadband licenses as site-based licenses, but rather continue to highlight the benefits of the geographic-based approach used for 3/3 broadband licenses. As Anterix notes, 3/3 broadband licenses have

already been issued for a substantial number of counties and introducing different geographic parameters would complicate the license landscape. Licensing 3/3 broadband licenses on a county basis while introducing site-based licenses for 5/5 broadband would add confusion to operations. This would also limit the flexibility of a 5/5 broadband licensee by requiring it to obtain a new authorization for each site of an operation, introducing operational challenges and delaying the band transition. A geographic-area license allows a broadband licensee to be responsive to the needs of its operation in real time and set up a new site wherever additional support is needed or redistribute resources as needs change.

60. The record supports the licensing of the 5/5 broadband segment on a geographic-area basis by county. LCRA points out that the county licensing scheme has successfully facilitated utilities' access to 900 MHz broadband licenses and effectively enables relocation of incumbent users. In the *3/3 900 MHz R&O,* the Commission recognized that the band was subject to diverse uses and that the intensity of spectrum use varied by geographic area; in that context, the Commission found that this size best supported a negotiation-based transition. This is also true for 5/5 broadband licenses. Over the course of the 3/3 transition, we have found that the smaller geographic boundary is critical in the voluntary transition, because it helps broadband proponents manage the number of incumbents that a broadband licensee would need to relocate at one time. Additionally, in the *3/3 900 MHz R&O,* the Commission concluded that a geographic license area was best suited for 3/3 broadband licenses and ensured that this transition was consistent with our actions in other bands used to provide fixed and mobile services.

61. Based on this record and the success in the 3/3 transition, we believe adoption of the same county-based geographic license areas for 3/3 and 5/5 broadband licenses is best, as it promotes cohesion in the band. We find it critical that 5/5 broadband licensees are able to avail themselves of the same benefits of county-based geographic licenses as 3/3 broadband licensees. Our actions today will continue to promote efficiency in this band.

2. License Term

62. Consistent with the proposals in the *5/5 900 MHz NPRM* and with the rules for 3/3 broadband licenses, the 5/5 broadband licenses will generally have a 15-year initial term with subsequent 10-year license renewal terms. Anterix and UTC concur that a 15-year term with 10-year renewal terms is consistent with the Commission's rules for 3/3 broadband licenses and support the use of these license terms for 5/5 broadband licenses. We find that this 15-year initial license term is in the public interest as this keeps a consistent approach among the 3/3 and 5/5 900 MHz broadband licenses and accounts for the complexities of this band and its transition as well. We believe that a 15-year license term will continue the positive trend of investment in this band as licensees have found this term to be long enough to build out a service network. This is reflected in the scope for activity since the *3/3 900 MHz R&O.* Anterix reports that there are currently at least seven utilities deploying 900 MHz broadband networks across a multitude of states and that more than 125 leading technology and service providers are driving utility solutions. Our actions today seek to build upon this type of success; keeping a consistent license and renewal term across 3/3 and 5/5 broadband licenses is part of this effort. Accordingly, we adopt the 15-year initial term with 10-year renewal terms as proposed in the *5/5 900 MHz NPRM,* subject to certain adjustments.

3. Performance Requirements

63. Based on the record before us, we find it in the public interest to adopt key components of the performance requirements that we proposed in the *5/5 900 MHz NPRM.* As the Commission has stated previously, performance requirements promote the productive use of spectrum, encourage licensees to provide service in a timely manner, and promote the provision of innovative services and technologies in unserved areas, particularly rural markets. We conclude that these goals are generally served by the coverage benchmarks, timeframes, broadband requirements, and penalties proposed in the *5/5 900 MHz NPRM,* which mirror those adopted in the *3/3 900 MHz R&O* and take into account the types of services that are likely to be deployed using this 900 MHz spectrum. For 3/3 broadband licensees that exchange their licenses for 5/5 broadband licenses, however, we shorten the performance timeframes in order to ensure that the spectrum is intensely and efficiently utilized.

a. Coverage Benchmarks

64. Regarding the quantifiable benchmarks in each individual license area, we find that it serves the public interest to adopt the coverage benchmarks as proposed and as supported by the record. A 5/5 broadband licensee can meet the population coverage requirement by providing reliable signal coverage and offering broadband service to at least 45% of the population in the license area by the applicable interim deadline (interim performance benchmark), and to at least 80% of the population in the license area by the applicable final deadline (final performance benchmark). As an alternative to the population coverage requirement, a licensee can meet its coverage requirements by providing reliable signal coverage and offering broadband service covering at least 25% of the geographic license area by its applicable interim deadline (interim performance benchmark), and at least 50% of the geographic license area by its applicable final deadline (final performance benchmark). After satisfying the final performance benchmark, the 5/5 900 MHz broadband licensee will be required to continue to provide reliable signal coverage and offer service at or above that final benchmark level for the remaining years in the license term.

65. Although the ''offering of broadband services'' does not require a commercial offering to the general public, we decline to permit a 5/5 broadband licensee to meet its coverage performance requirements merely by demonstrating that it is using facilities to further its private business needs, as requested by commenters, instead of meeting the specific percentage targets. We find that it serves the public interest to establish quantifiable metrics to help ensure that the 5/5 broadband licenses are intensely and efficiently utilized. We believe that adopting geographic metrics of 25% and 50% as an alternative to the population coverage benchmarks accommodates use of the spectrum for private business needs, as has been the case with the identical benchmarks established for the 3/3 broadband licenses, especially as the geographic size of each license—a single county—is relatively small. As in the *3/3 900 MHz R&O,* we find that adding the substantial service option for 5/5 broadband licenses is unnecessary, given the alternative option of geographic coverage where population metrics are more difficult to meet. Accordingly, we adopt the population and geographic coverage requirements proposed in the *5/5 900 MHz NPRM.*

b. Timeframe and Deadlines for Meeting the Coverage Benchmarks and Offering Broadband Service

66. In the *5/5 900 MHz NPRM,* the Commission proposed to give 5/5 broadband licensees the same amount of

time for performance benchmarks as the rules provide to 3/3 broadband licensees. Specifically, the Commission proposed six years to meet an interim performance benchmark for a newly issued 5/5 broadband license, and an additional six years to meet the final performance benchmark, starting with the date of grant of the 5/5 broadband license. Commenters support the proposed deadlines. We adopt these performance benchmark deadlines as proposed for new 5/5 broadband licenses where the licensee transitions the county from the legacy configuration. We find that these deadlines are appropriate given that 5/5 broadband licensees in markets not already transitioned to a 3/3 broadband segment will need to undertake significant work, particularly with respect to existing incumbents, to transition the band to the new regulatory framework that we adopt today.

67. Where a 3/3 broadband licensee opts to expand to a 5/5 broadband license, however, we find that abbreviated performance benchmark timeframes are more appropriate. The *5/5 900 MHz NPRM* sought comment on whether the proposals discussed above represent the appropriate balance between license-term length and a significant final performance benchmark, and it also recognized the need to include appropriate incentives for current 3/3 broadband licensees that expand their operations by applying for and receiving a 5/5 broadband license. In this expansion scenario, application of the performance benchmark deadlines outlined above would allow for unnecessarily drawn-out buildout periods—as long as 24 years when adding the same timeframes for the 5/5 transition to the timeframes for the 3/3 transition. We anticipate that conversion from 3/3 broadband operations to 5/5 broadband operations in this band would not require significant additional construction or equipment, but rather would primarily entail retuning previously installed radio equipment. Anterix agrees ''that if a party had already secured a 3 MHz x 3 MHz license under the existing build out rules, an expansion to 5 MHz x 5 MHz should not trigger a new 12-year build out timeframe.'' It further indicates that a limited additional performance benchmark deadline would still allow the licensee ''to evolve [its] 3 MHz x 3 MHz network to support 5 MHz x 5 MHz.'' We therefore conclude that application of the above extended performance benchmark timeline would not serve the public interest or the Commission's objective to promote efficient and intense utilization of spectrum in the 900 MHz band.

68. We are also concerned that, if we were to fail to acknowledge potential incentives related to the 3/3 to 5/5 transition as we consider performance obligation deadlines, a 3/3 broadband licensee could exploit a potential loophole. In particular, the licensee could opt not to deploy its 3/3 broadband network, thereby allowing its spectrum to lie fallow and failing to meet its 3/3 interim performance benchmark, and then exchange that inoperative 3/3 license for a 5/5 broadband license in order to gain 12 more years to deploy its broadband network under a new set of deadlines. This set of actions would be contrary to our intent in establishing the 3/3 broadband licensing rules and thwarts the objectives of reconfiguring the 900 MHz band for broadband service. Moreover, the Commission has repeatedly emphasized the detriment to the public in allowing licensees to hoard spectrum and allow it to lie fallow. We also note that an applicant may not cancel its 3/3 broadband license solely in order to seek a new 5/5 broadband license (and lengthier construction deadlines) because, in that case, it would not meet the 5/5 broadband license eligibility requirement that an applicant must hold more than 50% of the total amount of licensed 900 MHz spectrum for the relevant county.

69. LCRA asserts that ''the Commission should permit licensees that expand from a 3/3 broadband license to a 5/5 broadband license to meet their performance requirements under a consolidated deadline based on the date the 5/5 broadband license is granted.'' We agree with LCRA to the extent that we recognize the efficiency of a single consolidated timeframe and set of deadlines for meeting the coverage benchmarks under a 5/5 broadband license that is issued in exchange for the existing 3/3 broadband license.

70. Specifically, where an applicant seeks a 5/5 broadband license in the same county in which it is exchanging its 3/3 broadband license, we will: (1) identify the remaining interim and/or final construction deadlines and expiration date of the 3/3 broadband license; (2) where the interim performance deadline for the 3/3 broadband license has not occurred prior to the grant of the 5/5 broadband license, add two years to that deadline and apply it to the 5/5 broadband license as the new interim performance deadline; (3) where the interim performance deadline for the 3/3 broadband license has passed but the final performance deadline for that license has not yet occurred, add two years to that final performance deadline and apply it to the 5/5 broadband license (there will be no 5/5 broadband license interim performance deadline); and (4) where the final performance deadline for the 3/3 broadband license has passed and the licensee timely met that deadline, set the 5/5 broadband license final performance deadline as 2 years from the date of license grant. If a 3/3 broadband licensee failed to meet its interim performance deadline, its final performance deadline will have been accelerated by two years pursuant to the penalty provisions adopted in the *3/3 900 MHz R&O.* Accordingly, upon issuing a new 5/5 broadband license to that licensee in the exchange scenario, two years will be added to the accelerated 3/3 final performance deadline, not the original 3/3 final performance deadline. We do not impose an additional interim performance requirement for a 5/5 broadband licensee where the 3/3 interim performance deadline has already been met because in such cases, the licensee has already made progress toward the final benchmark, and imposing an additional interim deadline would be unnecessarily burdensome. The performance requirement deadlines we establish today will encourage licensees to provide service in a timely manner and help to ensure intensive spectrum utilization.

Exchange occurs	5/5 Interim deadline	5/5 Final deadline
Before 3/3 interim deadline	3/3 interim deadline + 2 years	3/3 final deadline + 2 years.
Between 3/3 interim and final deadlines	None	3/3 final deadline + 2 years.
After final deadline	None	5/5 grant date + 2 years.

71. We also note that the license term for the new 5/5 broadband license in an exchange scenario is affected by the 3/3 broadband licensee's buildout progress. Specifically, if the 3/3 broadband licensee's term was reduced to 13 years pursuant to the applicable penalty provisions adopted in the *3/3 900 MHz R&O,* we will issue the new 5/5 broadband license for an initial 13-year term; otherwise we will issue it for an initial 15-year term.

c. Broadband Requirement and Broadband Safe Harbor

72. The performance requirements we are establishing today for 5/5 broadband licenses are two-fold, including both a coverage requirement and the offering of broadband services. The 5/5 broadband licensees will be required to demonstrate in their construction notifications that they are deploying broadband technologies and offering broadband services in order to satisfy the population or geographic coverage performance requirements we establish today. We reiterate our finding that it serves the public interest to promote increased broadband operations as a key component of the 900 MHz band.

73. We also find that it serves the public interest to allow every 5/5 broadband licensee to determine the specific broadband technology that will best accommodate its particular use of the spectrum. We do, however, establish a safe harbor for ''broadband service'' as proposed in the *NPRM.* Under this safe harbor, the Commission would find that a 5/5 broadband licensee has satisfied the requirement to offer broadband service if, at a minimum, it provides 5/5 LTE service, based on the 3GPP standard release 8.0. An LTE network based on a later 3GPP standard release offering more advanced services may also be deployed. We note that these minimum features are consistent with the minimum features previously adopted for the safe harbor for the 3/3 license performance requirements, and that they are related to the characteristics of this band and the anticipated uses. With the safe harbor for meeting the broadband service performance requirement, we do not intend to thwart technological improvements, and a 5/5 900 MHz broadband licensee is free to submit for Commission review an alternative methodology to demonstrate that it has met the broadband service component of the performance requirement. We agree with commenters that, while LTE networks can benefit the likely customer base of utilities and other part 90 users, it is beneficial to permit showings that alternative technologies can meet the broadband service component of the performance requirement. We also recognize, as commenters have noted, that utilities and other enterprise licensees may use their 900 MHz band licenses to offer broadband service for private business and not broadly to the public.

d. Penalties

74. We find that it serves the public interest to adopt the penalties proposed in the *5/5 900 MHz NPRM.* If a 5/5 broadband licensee fails to meet its applicable interim performance benchmark, its final benchmark deadline will be accelerated by two years, and its license term will be reduced by two years. If a 5/5 broadband licensee fails to meet the final performance benchmark, even if it met its applicable interim performance benchmark, its authorization for that license area will terminate automatically without Commission action and that licensee will be ineligible to acquire it again. Further, if a license terminates for failure to satisfy the final performance benchmark, the spectrum will become available for assignment subject to the eligibility requirements we adopt today, or any subsequent license issuance or competitive bidding rules that we may adopt. No commenter addressed the appropriate penalties for failing to meet the performance requirements. Our approach here is consistent with the Commission's rules for other broadband services. We also remind prospective 5/5 broadband licensees that if they rely on a lessee to meet the performance requirements we adopt today, and the lessee fails to fulfill such requirements, we will enforce the performance requirements failure against the licensee.

e. Narrowband Operations

75. The Commission sought comment on whether narrowband licensees in the 900 MHz band should be required to satisfy more stringent performance requirements than required under the existing rules, whether or not those licensees ultimately agree to relocate their facilities. The Commission also invited commenters to discuss the state of current narrowband utilization, any ongoing or future investment in narrowband operations, and whether certain narrowband licensees have satisfied their promises to utilize the band more intensively. AAR notes that ''[r]ailroads use the 900 MHz band to support new safety applications including increased regulatory signaling obligations and recommendations established by the Federal Railroad Administration (FRA) and the [National Transportation Safety Board], respectively.'' The Commission queried which modified performance requirements, if any, would best achieve the Commission's objectives to put otherwise fallow spectrum to more intensive use in the 900 MHz band. No comments address these issues. At this time, the Commission does not make changes to the existing performance requirements governing the 900 MHz narrowband licenses.

4. Renewal Term Obligations

76. We will not adopt additional renewal requirements outside of those already in place in § 1.949 of our rules. In order to warrant renewal, a 5/5 broadband licensee must provide service over the license term. Licensees may meet a renewal ''safe harbor'' (continuing to serve at or above the level required by the final construction requirement), or make an individualized renewal showing. We expect that 3/3 and 5/5 broadband licensees will continue to provide broadband service in their renewal terms. Individualized renewal showings for non-broadband service will face a high burden of demonstrating that such service is in the public interest.

5. Mobile Spectrum Holdings Policies

77. In the *3/3 900 MHz R&O,* the Commission declined to include the 3/3 broadband segment in the Commission's spectrum aggregation screen. In doing so, the Commission noted the relatively small amount of broadband spectrum at issue, compared to other flexible-use broadband services that the Commission had designated in the past. The Commission also observed that use of the 3/3 broadband segment was ''likely to be focused on business, enterprise, and government customers whose needs are not being met by the consumer-driven, wireless service offerings.'' In the *5/5 900 MHz NPRM,* the Commission sought comment on whether any new basis exists to revisit the determination in the *3/3 900 MHz R&O* if the Commission adopts rules to enable 5/5 broadband. No commenter raised any concerns with following the Commission's approach from the *3/3 900 MHz R&O.* Consistent with the Commission's approach for the 3/3 900 MHz spectrum, 5/5 broadband licenses are not included in the Commission's spectrum aggregation screen.

D. Technical Rules

78. The Commission applies the part 27 technical rules for 5/5 broadband licenses and continues to apply our part 90 rules to the 900 MHz narrowband

licenses at 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz in the 3/3 configuration counties that do not transition to a 5/5 broadband configuration. We will also continue to apply part 90 rules to the entire band for counties that remain in a legacy configuration. We make minimal adjustments discussed further herein. The Commission first applied these rules to the 900 MHz broadband segment in the *3/3 900 MHz R&O,* where the Commission recognized that our part 27 rules would prevent harmful interference and the existing part 90 rules would provide sufficient protection for narrowband licensees in the 900 MHz band. Our part 27 technical rules have functioned effectively in the 3/3 broadband context. As Anterix highlights, 900 MHz broadband has proven to be a good neighbor to in-band narrowband systems and these operations that have been found useful in an environment where dissimilar systems in adjacent bands are in play. UTC notes that the proposed technical rules will effectively prevent harmful interference between users of the band as well as users of adjacent bands and that, while the narrowband segments will not function as a guard band, there are a variety of other mitigating factors.

79. A few commenters raise concerns regarding application of the part 27 rules in a 5/5 broadband context. We are not persuaded that use of the part 27 rules presents an issue in the 5/5 broadband context. In particular, and as noted by UTC and SDG&E, existing interference protocols and mitigation options should operate to address harmful interference concerns.

1. Broadband Rules

80. *Transmitter power limits.* We find it in the public interest to apply the same effective radiated power limits to 3/3 and 5/5 broadband licenses. As discussed in the *5/5 900 MHz NPRM,* the Commission provides in § 27.1507 of our rules an effective radiated power for base and repeater stations in the 900 MHz 3/3 broadband segment not to exceed 400 watts/megahertz power spectral density (PSD) in non-rural areas and 800 watts/megahertz PSD in rural areas, with maximum permissible power decreasing as the antenna height above average terrain (HAAT) rises above 304 meters. In the past, the Commission allowed additional flexibility to 3/3 900 MHz broadband licensees who have sought to operate at higher powers, as long as they sufficiently mitigate the risk of harmful interference. In doing so, the Commission also adopted rules permitting an effective radiated power for mobile, control, and auxiliary test stations in the broadband segment not to exceed 10 watts, and effective radiated power of portables not to exceed 3 watts. Nokia supports the proposal, stating that it will ''allow utility companies to utilize similar coverage to the current 3 MHz broadband deployment.'' Based on this record of success in the 3/3 broadband segment, we will extend the same rules to 5/5 broadband licenses.

81. *Out-of-band emission (OOBE) limits.* The 5/5 broadband technical rules provide that the spectrum immediately outside a 900 MHz broadband licensee's frequency band of operation must be attenuated by at least 43 + 10 log (P) dB for uplink operations in the 897.5–900.5 MHz band and by at least 50 + 10 log (P) dB for downlink operations in the 936.5–939.5 MHz band. We believe that applying this limit to the 5/5 broadband licensees will continue to provide the appropriate protections to 900 MHz band neighbors. Most commenters support this outcome although commercial air-to-ground (ATG) communications users in neighboring bands raise concerns.

82. We agree with the majority of commenters that the 3/3 OOBE limits are appropriate and provide necessary interference protections from 5/5 broadband operations to adjacent band users. In maintaining the same limit, we take into account that there has already been equipment deployed by 3/3 broadband users. Anterix, Ericsson, LCRA, UBBA, and Nokia all strongly support maintaining the same OOBE limit for 5/5 broadband licenses. LCRA believes that the current technical rules should be maintained for expanded 5/5 broadband operations and are ''sufficient to protect adjacent band users'' as these companies, with their extensive experience ''confirm that the proposed technical rules will ensure adjacent services are protected from harmful interference, while enabling utilities to expand in a cost-efficient manner.''

83. Nokia identifies two key considerations that the OOBE limit should address: this limit must factor in prior investment on the part of users of this band and ensure that adjacent services are protected from inference. In maintaining the same limit, we take into account that there has already been equipment deployed by 3/3 broadband users. To provide as much stability as we can to the 5/5 transition, we find it best to maintain the same rules and expectations where we can so the licensees can continue to rely on aspects of the transition that are working in the best interest of all parties involved. Additionally, we are not persuaded that this OOBE limit would result in harmful interference to operations outside of this band; we find that this limit also continues to protect out of band operations.

84. Ericsson also highlights the importance of maintaining the same OOBE limit, stating that it will result in a ''consistent regulatory environment that supports innovation and growth'' while providing on balance, an environment that ''safeguards the interest of all spectrum users.'' This will also allow for ''seamless integration of services'' between 3/3 and 5/5 broadband. We agree that maintaining the same OOBE limit in both the 3/3 and 5/5 broadband contexts provides predictability to licensees while enabling them to expand their broadband operations.

85. However, Gogo suggests that the Commission should require a 5/5 broadband licensee's OOBE limit to be attenuated by at least 50 + 10 log (P) dB, rather than the current OOBE limit of at least 43 + 10 log (P) dB. Gogo is concerned that the absence of a guard band ''creates a risk of [OOBE] causing harmful interference to Gogo's operations, reducing the overall spectral efficiency of Gogo's ATG system or disrupting it entirely.'' In addition, Gogo suggests that the Commission should consider amending § 27.1509(c) of our rules to eliminate the –26 dB exception with respect to expanded 900 MHz operations at or below 896 MHz.

86. In the alternative, Gogo suggests several requirements for 5/5 broadband licensees, including requiring coordination within five miles of a Gogo site, requiring lab and real-world testing, establishing a legal and financial duty on the part of each broadband licensee to prevent and remediate harmful interference, affirming that 5/5 broadband licensees can negotiate private coexistence agreements, and, finally, designating a single 24/7 contact number for reporting harmful interference from all licensees.

87. MSI suggests that the Commission ''should propose an [OOBE] limit no greater than –23 dBm/MHz in the band immediately adjacent to the broadband allocation[s],'' which MSI also suggested before adoption of the *3/3 900 MHz R&O.* Similar to the Commission's discussion in *3/3 900 MHz R&O,* we find MSI's suggestion to be overly conservative for 5/5 900 MHz broadband operations and find that the proposed OOBE limit may restrict 5/5 broadband deployment in certain areas. Additionally, as UBBA notes, MSI has

presented no evidence to revisit this determination in the 5/5 context.

88. In the *3/3 900 MHz R&O,* the Commission retained the authority to impose operational restrictions or tighter OOBE limits if necessary to resolve harmful interference. We retain the same authority here. As a matter of course, we expect 5/5 broadband licensees to engage in coordination efforts with the adjacent band users to identify additional measures needed to promote co-existence. We believe that licensees in each band are best situated to determine which methods of interference avoidance and mitigation are appropriate for each site. We expect that licensees will take steps such as carefully selecting transmitter locations, adjusting transmitter and antenna parameters, and controlling power levels. Additionally, licensees are in the best position to reach private and working agreements that reflect the real-time needs of both sets of operations. For example, a 3/3 or 5/5 broadband licensee could contractually agree to a more stringent OOBE, or could agree to an enhanced coordination regime.

89. Finally, Commission rules require all licensees to use frequencies far enough away from the band edges so as not to cause harmful interference to services in the immediately adjoining frequency bands. In order to comply with our rules, any 900 MHz broadband licensee would be required to select frequencies that would result in the attenuation necessary to prevent harmful interference to the adjacent band. This should address the concerns raised by Gogo and other band neighbors. However, in the event that harmful interference occurs, we expect the licensees will take appropriate steps to resolve it first through bilateral negotiation, then by notifying the Commission.

90. *Interference protections and resolution.* We find it in the public interest to maintain the current interference protections and resolution requirements for 3/3 broadband licensees and apply the same requirements to 5/5 broadband licensees. Both 3/3 and 5/5 900 MHz broadband licensees will be required to comply with §§ 27.1510 and 90.672 of the Commission's rules regarding unacceptable interference and resolution requirements. In addition, co-channel broadband systems must comply with existing 900 MHz co-channel separation requirements, which require that co-channel systems generally comply with a minimum spacing criteria of at least 113 kilometers (70 miles) separation distance between base stations.

91. Several commenters suggest that we consider a smaller spacing of 40 miles. However, no commenter gave details on purported negative effects of the 70-mile zone on broadband operations. Additionally, no technical basis has been provided as to why a 30-mile reduction is appropriate for both 3/3 and 5/5 broadband licensees. The current 70-mile buffer has operated to protect narrowband users from 3/3 broadband licensees for the past five years and we have not received any formal complaints that this requirement is hindering operations. In the *3/3 900 MHz R&O,* the Commission found that this co-channel separation distance standard is sufficient to protect site-based narrowband operations from 3/3 broadband operations. We maintain the 70-mile/113-kilometer base station separation requirement for 3/3 and 5/5 broadband licenses.

92. Currently, 3/3 broadband licensees are also required to prevent harmful interference to narrowband operations and to resolve any unacceptable interference in the shortest time practicable. In the *5/5 900 MHz NPRM,* the Commission sought comment on Gogo's proposal that there be a mandatory coordination and remediation process to prevent and resolve harmful interference that would include pre-deployment coordination and testing and a single point of contact for all 5/5 broadband licensees, among other requirements, to prevent harmful interference that should be implemented by Commission rules or license conditions and supported by private agreements. In its most recent ex partes, Gogo again asks the Commission to require pre-coordination and other prophylactic measures from 5/5 licensees. While our stringent OOBE limits obviate the need for formal coordination procedures, we reiterate our expectation that 5/5 licensees and Gogo will engage in good faith to ensure spectral coexistence.

93. UBBA highlights that the Commission rejected similar proposals from Gogo in the *3/3 900 MHz R&O,* where the Commission noted the expectation for ''900 MHz broadband licensees and adjacent band licensees to work together to resolve any interference issues.'' This remains true today. Licensees still have a robust set of options to mitigate harmful interference to adjacent band operations, and we expect those tools to be used by both 3/3 and 5/5 broadband licensees alike.

94. *Field strength limit.* The Commission establishes a median field strength limit not to exceed 40 dBμV/m at any given point along the geographic license boundary in the broadband segment, unless the affected licensee agrees to a different field strength limit.

95. *Canada/Mexico border operations.* All 900 MHz licensees seeking to operate in border regions remain subject to the United States' agreements and arrangements with Canada and Mexico. These include, as applicable, limitations on channel usage, as 900 MHz channels are divided between countries on a primary and secondary basis, and it is likely that a 3/3 or 5/5 900 MHz broadband license in the border area would be operating on both U.S. primary channels and channels that are secondary to Mexican and/or Canadian operations. Additionally, a 3/3 or 5/5 900 MHz broadband licensee is subject to current power restrictions, which for primary licensees vary based on antenna height, and for secondary licensees include more restrictive power flux density limits. All broadband licensees in the 900 MHz band are also subject to any international agreements governing border-area operations.

2. Narrowband Rules

96. We find that existing part 90 rules governing narrowband operations in the 900 MHz band for the legacy and 3/3 configurations are appropriate to ensure co-existence in neighboring counties with 5/5 broadband licensees, with one clarifying provision discussed in further detail below. In the *5/5 900 MHz NPRM,* the Commission sought feedback on whether changes to the existing part 90 technical and operational rules are necessary or desirable to support continued 900 MHz narrowband operations. No commenter suggested specific changes to part 90 rules to better accommodate a 5/5 broadband licensee. AAR suggests that we should maintain our part 90 technical rules in order to best protect narrowband incumbents and we should not change our technical rules unless and until all narrowband incumbents have been completely cleared from the 5/5 broadband segment. We agree; the part 90 rules currently provide protection to narrowband incumbents where 3/3 broadband operations are in effect and we see no compelling reason to adjust these technical rules at this time.

97. Existing rules establish mechanisms for preventing interference to licensed broadband systems from new or modified narrowband operations. In this regard, the Commission's existing co-channel separation requirements for narrowband systems, as set forth in § 90.621(b)(4) of the Commission's rules, provide adequate protection to 3/3 and 5/5 broadband systems. To provide added

certainty of such protection, we find that it serves the public interest to adopt a new provision to our rules—§ 90.621(b)(8). This provision clarifies that existing narrowband licensees in the band will not be prohibited from modifying their systems to meet evolving needs, and that narrowband licensees will not be prohibited from entering the band in the future when the freeze is lifted, as long as they comply with specified requirements of our rules to protect broadband licensees already operating. When applying these co-channel separation rules, the proposed narrowband system must calculate and apply the required separation and contour protections from the edge of the co-channel broadband licensee's market boundary.

99. Space Data suggests a wholesale re-banding to move 900 MHz up to a higher frequency to allow for more space between a 5/5 broadband licensee and the adjacent band users. However, UBBA argues that this is outside of the scope of the *5/5 900 MHz NPRM*'s proposals, and we agree.

E. 900 MHz Licensing Freeze

100. Today, we find that a 900 MHz licensing freeze should not remain in place indefinitely and we direct the Bureau to consider lifting the freeze at appropriate points in the future. The Commission establishes a timeframe to guide the Bureau toward eventually opening the band for unrestricted licensing, as follows: (1) from now until six months from the date of publication of this item in the **Federal Register**, the licensing freeze will remain in place; (2) beginning six months from the date of publication of this item in the **Federal Register**, the Bureau may consider partially lifting the freeze to allow expansion of incumbent systems; and (3) three years from the date of publication of this item in the **Federal Register**, the Bureau may reconsider lifting the freeze in its entirety.

101. The Bureau has long maintained a licensing freeze on the acceptance of applications for new or expanded 900 MHz operations, which was established to maintain a stable spectral landscape while the Commission determined how to proceed with respect to the 900 MHz band. Once the *3/3 900 MHz R&O* was issued, the licensing freeze gave 3/3 broadband proponents the ability to negotiate toward broadband deployment without new entrants complicating the negotiations (and the freeze protected broadband proponents from potential speculating behavior by bad actors). Yet, at the same time, complex systems and other narrowband incumbents have been severely limited in their ability to expand or improve systems for legitimate business needs.

102. While the licensing freeze has served its purpose in facilitating the 3/3 broadband transition in the 900 MHz band, we do not believe that it is in the public interest to maintain such a freeze indefinitely. We intend that our delegation to the Bureau for a partial freeze lift will be limited in scope: it should consider the expansion of existing narrowband systems in terms of spectrum or geography, including complex system expansion.

103. We delegate authority to the Bureau to issue any appropriate public notice with details about a potential lift of the licensing freeze including the exact dates, eligibility requirements, and any other relevant information. The Commission also directs the Bureau, if necessary, to reinstate the freeze in any form required to achieve the Commission's goals of an efficient and smooth transition.

F. Other Issues

1. 3GPP Alignment

104. The *5/5 900 MHz NPRM* sought comment on whether there is a specific 3GPP standard that should apply to reduce the risk of harmful interference, either in band or to adjacent band users. Gogo suggests that the Commission should harmonize with 3GPP standards, specifically mentioning that specification (3GPP 36.101 Table 6.6.2.1.1–1) for a 5/5 broadband allocation ''is slightly stricter than the FCC requirement and does not include the FCC's –26dB exception at band edge.'' For the reasons discussed above in the OOBE section, we decline to adopt Gogo's suggestion. We apply the same standard to 3/3 and 5/5 broadband operations.

2. 220 MHz Delegation of Authority

105. As discussed above, on a practical level, the nationwide ribbon license held by the railroads at 896–896.125/935–935.125 MHz (in the lower portion of the first narrowband segment of the 3/3 configuration) presents a significant challenge to widespread deployment of 5/5 broadband in the 900 MHz band. One potential solution suggested by AAR would be for the railroads to move from the 900 MHz band to the 220 MHz band (conditioned on several factors). We recognize that a relocation of the railroads from 900 MHz to 220 MHz under the rules adopted herein and pursuant the conditions desired by the railroads can be accomplished through (a) private, voluntary agreements involving multiple parties including the railroads, 900 MHz broadband proponents such as Anterix, and 220 MHz incumbents, and (b) access to licenses currently in the FCC's spectrum inventory. In order to facilitate this potential solution, we delegate authority to WTB to address potential waiver requests seeking access to 220 MHz FCC inventory spectrum (including but not limited to requests involving transactions, new or modified licenses, administrative license changes, extended license terms, and extended terms of discontinuance of service). We expect that the Bureau would rule favorably on such requests to the extent they: (1) facilitate the transition of railroad operations from the 900 MHz to 220 MHz band, (2) facilitate access to 220 MHz inventory spectrum for railroads or other 220 MHz incumbents, and (3) include an anti-windfall payment in cases where there is a net reduction of FCC inventory spectrum. This delegation of authority to WTB is intended to expedite and streamline consideration of such 220 MHz waiver requests in order to promote broadband access while ensuring rail safety.

3. Complex Systems Definition

106. Several commenters raise issues related to ''complex systems,'' which are systems excluded from mandatory relocation under the process provided for the 3/3 transition. Because the 5/5 broadband process does not include mandatory transition of holdouts from the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz portions of the band (the narrowband segments in the 3/3 configuration), we do not need to adopt a similar exemption for the rules governing 5/5 broadband. EEI and NextEra Energy, Inc. (NextEra) both request that the Commission add additional clarity to the § 27.1501 definition of complex systems, which currently reads: ''A covered incumbent's system that consists of 45 or more functionally integrated sites.'' The Commission explained that this designation would be effective as of the adoption date of the *3/3 900 MHz R&O.* Essentially, commenters request that the date be added to the definition so that those users who qualified as complex systems as of the date of the *3/3 900 MHz R&O* can retain that status going forward. No commenter opposed the definitional adjustment. We conclude that it is in the public interest to add this clarification to the definition to provide assurance for complex systems to adjust and streamline their operations without fear that these improvements could bring the possibility of mandatory transition. The new definition of ''complex systems'' will read: ''A covered incumbent's system that

consists of 45 or more functionally integrated sites as of May 13, 2020.''

IV. Procedural Matters

107. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities. The FRFA is set forth in Appendix B.

108. *Paperwork Reduction Act.* This *Report and Order* may contain new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. All such requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

109. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

V. Final Regulatory Flexibility Analysis

110. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the Review of the Commission's Rules Governing the 896–901/935–940 MHz Band (Notice) released in January 2025. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Report and Order

111. In the *Report and Order,* the Commission adopts rules providing for the realignment of the 896–901/935–940 MHz band (900 MHz band) to enable broadband use for the entire ten megahertz of the 900 MHz band. The rules we adopt today allow for certain existing 900 MHz licensees to transition to a 5/5 broadband license. The revised 900 MHz regulatory framework also maintains previous configurations of the 900 MHz band, allowing continued operations by legacy Specialized Mobile Radio (SMR), land mobile radio, and other narrowband licensees, as well as 3/3 broadband licensees. The *Report and Order* builds upon the Commission's previous efforts to realign the band to provide for the deployment of broadband services and technologies. We update the existing 900 MHz broadband licensing framework to facilitate a voluntary, market-driven transition and to allow 900 MHz users the opportunity to increase their capacity for more advanced and robust broadband communications networks. This ten-megahertz broadband spectrum opportunity will enable innovation and help ensure that utilities, critical infrastructure, and small and other business enterprise entities have access to additional broadband capacity to support ongoing 900 MHz private wireless broadband deployments.

112. In addition, the *Report and Order* provides a pathway to a ten megahertz broadband option in the 900 MHz band. Under the rules we adopt today, the 900 MHz spectrum can be used on a county basis in any of the following three configurations: (1) a ''legacy'' configuration with twenty wideband channels interleaved with 200 narrowband channels; (2) one six-megahertz broadband segment consisting of two paired three-megahertz channels and two narrowband segments with a total of 159 narrowband channels; or (3) ten megahertz of broadband consisting of two paired five-megahertz channels and no reserved narrowband channels.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

113. No comments were filed addressing the impact of the proposed rules on small entities.

C. Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy

114. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and also provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

115. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

116. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and are not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less

than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

117. The rules adopted in the *Report and Order* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in the identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we provide additional information regarding the number of potentially affected entities in the identified industries below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard (employees)	Total firms	Total small firms	% Small firms
Wireless Telecommunications Carriers (except Satellite) ...	517112	1,500	1,184	1,081	91.30

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
Affected entity	Total number FCC Form 499A filers	Small firms	% Small entities
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

118. The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

119. The adopted rule changes are likely to require small entities to hire attorneys, engineers, consultants, or other professionals in order to meet compliance obligations in the *Report and Order.* The Commission, however, cannot quantify the cost of compliance with these rule changes. We note, however, that several of the rule changes are consistent with and mirror existing policies for 3/3 900 MHz broadband licensees and requirements used in similar spectrum bands. Therefore, small entities with existing licenses may already be familiar with such policies and requirements and may have processes and procedures already in place to facilitate compliance, thereby resulting in minimal incremental costs to comply with the *Report and Order.* The following discussion summarizes the compliance requirements for small and other entities that are adopted in the *Report and Order.*

120. *Application Freeze.* The *Report and Order* establishes a framework to guide the Wireless Telecommunications Bureau (Bureau) towards eventually opening the band for unrestricted licensing, as follows: (1) from now until six months from the date of publication of this item in the **Federal Register**, the licensing freeze will remain in place; (2) beginning six months from the date of publication of this item in the **Federal Register**, the Bureau may consider beginning to accept applications that expand incumbent systems (including complex systems); and (3) in three years from the date of publication of this item in the **Federal Register**, the Bureau may reconsider lifting the freeze in its entirety.

121. *Eligibility and Applications.* The *Report and Order* models the eligibility requirements already established for a 3/3 broadband license and applies similar application requirements to obtain a 5/5 broadband license. An applicant must submit both an Eligibility Certification and a Transition Plan. The Eligibility Certification must include, at a minimum, a showing that: (1) the applicant holds the licenses for more than 50% of the total amount of licensed 900 MHz spectrum for the relevant county; (2) as it pertains to the 3/3 broadband segment (897.5–900.5/936.5–939.5 MHz), the prospective licensee either: (a) holds a 3/3 broadband license in the relevant county; or (b) itself holds, or has reached an agreement to clear through acquisition, cancellation, or relocation, or demonstrated how it will provide harmful interference protection to 90% or more of site-channels held by covered incumbents collectively holding licenses in the 3/3 broadband segment, in the county and within 70 miles of the county boundary, and holding geographically licensed channels where the license area completely or partially overlaps the county; and (3) the applicant itself holds, or has either reached an agreement to clear through acquisition, cancellation, or relocation, or demonstrates how it will provide harmful interference protection to, all covered incumbent licensees collectively holding licenses in the narrowband segment in the county and within 70 miles of the county boundary and holding geographically licensed channels where the license area completely or partially overlaps the county.

122. A 5/5 broadband applicant can rely on either its 3/3 broadband license or its 900 MHz SMR and B/ILT spectrum to meet the 50% threshold in the relevant county. This is one of the key differences in eligibility between the 5/5 and 3/3 900 MHz broadband requirements. We believe that allowing the 5/5 broadband applicant to meet this specific eligibility requirement by holding a 3/3 broadband license would not only show that the 50% threshold is met in a relevant county but also ensures that an existing 3/3 broadband licensee may expand its broadband operations if it otherwise meets the eligibility criteria. However, we do not require a two-step process whereby a prospective 5/5 broadband applicant would first be required to hold or obtain a 3/3 broadband license.

123. An application for a 5/5 broadband license also must include a Transition Plan. Transition Plans must describe in detail all information and

actions necessary to accomplish the realignment to 5/5 broadband, as follows: (1) a description of the agreements reached with covered 5/5 incumbents and the applications that the parties to the agreements will file for spectrum in the broadband and/or narrowband segments, as applicable, in order to relocate licensees; (2)(a) a description of how the applicant will provide harmful interference protection to, and/or clear through license cancellation, relocation, or acquisition of spectrum held by covered incumbents collectively holding licenses for at least 90% of site-channels in the 3/3 broadband segment and 100% of site-channels in the narrowband segment, as applicable, in the county and within 70 miles of the county boundary, and for geographically licensed channels where the license area completely or partially overlaps the county, and/or (b) evidence that it holds licenses for the site-channels and/or geographically licensed channels; (3) any rule waivers or other actions necessary to implement an agreement with a covered incumbent; and (4) such additional information as may be required for the Commission to determine whether grant of the application is in the public interest.

124. To demonstrate that the 5/5 broadband applicant is able to effectuate the proposed transition and deploy broadband operations, while adequately protecting covered 5/5 incumbents, it must include in its Transition Plan a certification from an FCC-certified frequency coordinator that the Transition Plan's representations can be implemented consistent with Commission rules. Finally, to increase administrative efficiency and reduce burdens, we allow a 5/5 900 MHz broadband applicant seeking to transition multiple counties simultaneously to file a single Transition Plan that covers all of its county-based applications. We believe this process will simplify the overall transition and filing requirements.

125. The *Report and Order* directs the Bureau to open the 900 MHz band for 5/5 broadband by issuing a public notice announcing the date that the Bureau will begin accepting applications consistent with the eligibility and application requirements adopted herein. Consistent with part 1 of the Commission's rules, an application for a 900 MHz broadband license would be placed on public notice for 30 days, during which time interested parties may file petitions to deny. After review of the required filings, if the Bureau finds that the applicant has satisfied the 5/5 broadband license eligibility requirements and that granting of the application is otherwise in the public interest, it would grant the application and issue a 5/5 broadband license. The timeline for complying with the applicable construction obligations will begin immediately upon grant of the new license.

126. *Anti-Windfall Provisions.* The *Report and Order* adopts similar anti-windfall provisions as in the prior 3/3 broadband context. Specifically, an applicant will turn in all of its licensed 900 MHz SMR and B/ILT spectrum, as well as its 3/3 broadband license, if applicable, up to ten megahertz total, that it holds for any county in which it seeks a 5/5 broadband license. In instances where a prospective 5/5 broadband licensee holds less than ten megahertz of 900 MHz spectrum and is therefore unable to return ten megahertz, spectrum may be assigned from the Commission's available inventory for issuance of a broadband license if the applicant compensates the general fund of the U.S. Treasury via an anti-windfall payment as detailed herein. We believe that applying this anti-windfall requirement to the 5/5 broadband licenses is in the public interest, as it will act as payment for any spectrum provided by the Commission from its inventory and will mitigate any potential unearned benefit a prospective 5/5 broadband licensee receives as a result of this exchange.

127. *Licensing and Operating Rules.* The Commission designates the 900 MHz broadband allocation as a Miscellaneous Wireless Communications Service governed by part 27 of the Commission's rules. The licensing and operating rules that apply to the 3/3 broadband licenses will also apply to the 5/5 broadband licenses. The 3/3 broadband segment and 5/5 broadband frequency range will also be licensed geographically by county for 15-year terms with 10-year renewal terms.

128. *Performance Requirements.* In the 5/5 broadband context, the *Report and Order* adopts the coverage requirements proposed in the *Notice,* which mirror those adopted in the 3/3 broadband context and take into account the types of services that are likely to be deployed using this 900 MHz spectrum. Consistent with the 3/3 broadband license requirements, the *Report and Order* adopts a two-fold performance requirement whereby a 5/5 broadband licensee must: (1) provide reliable signal coverage and offer broadband service; and (2) meet a quantifiable benchmark—either (a) a population coverage requirement, or (b) a geographic coverage requirement—by certain deadlines. However, where a licensee holds a 3/3 broadband license, a full 12-year term for deployment of the 5/5 license is unnecessarily lengthy.

129. A 5/5 broadband licensee can meet the population coverage requirement by providing reliable signal coverage and offering broadband service to at least 45% of the population in each of its license areas by the applicable interim performance benchmark, and to at least 80% of the population in each of its license areas by the applicable final performance benchmark. As an alternative to the population requirement, a licensee can meet its coverage requirements by providing reliable signal coverage and offering broadband service covering at least 25% of the geographic license area by its applicable interim performance benchmark, and at least 50% of the geographic license area by its applicable final performance benchmark. After satisfying the final performance benchmark, the 900 MHz 5/5 broadband licensee will be required to continue to provide reliable signal coverage and offer service at or above that final benchmark level for the remaining years in the license term.

130. Lastly, the *Report and Order* adopts specific timelines for 5/5 broadband licensees to meet performance deadlines: six years to meet an interim performance benchmark for the newly issued 5/5 broadband license, and an additional six years to meet the final performance benchmark, starting with the date of grant of the 5/5 broadband license. The *Report and Order* establishes an abbreviated performance timeframe for a situation where a 5/5 broadband applicant holds a 3/3 license. Specifically, where an applicant seeks the 5/5 broadband license in the same county where it is exchanging its 3/3 license, application review will (1) identify the remaining interim and/or final construction deadlines and expiration date of the 3/3 broadband license; (2) where the interim deadline for the 3/3 broadband license has not yet been reached prior to the grant of the 5/5 broadband license, add two years to that deadline and apply it to the 5/5 broadband license; (3) where the interim deadline for the 3/3 broadband license has passed but the final deadline for that license has not yet occurred, add two years to that final deadline and apply it to the 5/5 broadband license (there will be no 5/5 broadband license interim deadline); (4) where the final deadline for the 3/3 broadband license has passed and the licensee timely met that deadline, set the 5/5 broadband

license final deadline as 2 years from date of license grant; (5) if the 3/3 broadband license's term was reduced to 13 years, issue the new 5/5 broadband license for an initial 13-year term; otherwise issue it for an initial 15-year term.

F. Discussion of Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

131. The RFA requires an agency to provide, ''a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''

132. As discussed above, the adopted rules in the *Report and Order* maximize the 900 MHz band's potential by enabling broadband deployment on all ten megahertz of the band. In reaching its conclusions, the Commission considered comments from a wide array of interested parties, some of which are small entities. With those comments in mind, the Commission has taken steps to enable it to minimize significant economic burdens on small entities resulting from the adopted rules and has also considered significant alternatives to those approaches. For example, we considered the concerns of railroad industry commenters regarding the financial and operational impact to their operating safety systems in the narrowband segment (at 897.5–900.5/936.5–939.5 MHz) as a result of transitioning out of the band to accommodate the 5/5 expansion. The adopted rules implement a voluntary, negotiation-based process that allows flexibility for incumbent operations and provides 900 MHz users, some of which are small entities, the opportunity to increase capacity for more advanced and robust broadband communications networks. In addition, we considered adopting different eligibility requirements for a 5/5 broadband license. However, the rules we adopt in the *Report and Order* largely mirror the eligibility requirements for a 3/3 broadband license, thereby potentially reducing administrative burdens on small entities that are already familiar with the 3/3 licensing process. The similarities between the two processes could minimize the need for such entities to utilize outside consultants or other professionals to assist them in understanding the application process.

133. The Commission does not believe that the rules adopted in the *Report and Order* create any significant negative economic impact on small entities. The *Report and Order* expands broadband availability in the 900 MHz band, while allowing two other configurations (legacy narrowband and 3/3 broadband) to continue on a county-by-county basis. This expansion updates the existing 900 MHz broadband licensing framework to allow 900 MHz users the opportunity to increase their capacity for more advanced and robust broadband communications networks. The Commission has taken many steps to harmonize this expansion with its prior action by implementing similar application procedures, technical rules, and performance benchmarks.

G. Report to Congress

134. The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for the SBA Office of Advocacy, and this FRFA (or summaries thereof) will also be published in the **Federal Register**.

VI. Ordering Clauses

135. *It is ordered* that, pursuant to the authority found in sections 1, 2, 4(i), 4(j), 301, 302, 303, 307–310, 319, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a, 303, 307–310, 319, 324, 332, this *Report and Order is hereby adopted.*

136. *It is further ordered* that, pursuant to the authority found in sections 4(i) and 5 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155, and §§ 0.201, 0.331, and 1.103 of the Commission's rules, 47 CFR 0.201, 0.331, 1.103, authority is delegated to the Wireless Telecommunications Bureau, subject to the conditions specified herein, *effective* upon publication in the **Federal Register**.

137. *It is further ordered* that this *Report and Order shall be effective* 30 days after publication in the **Federal Register**, except that the amendments to §§ 27.1503, 27.1504, and 27.1505, 47 CFR 27.1503, 27.1504, 27.1505, which may contain new or modified information collections, will not become effective until the Office of Management and Budget completes review of any information collections that the Wireless Telecommunications Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Wireless Telecommunications Bureau to announce the effective date for §§ 27.1503, 27.1504, and 27.1505 by notice in the **Federal Register** and by subsequent Public Notice.

138. *It is further ordered* that the Office of the Managing Director, Performance Program Management, *shall send* a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

139. *It is further ordered* that the Commission's Office of the Secretary *shall send* a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Parts 2 and 27

Telecommunications.

47 CFR Part 90

Business and industry, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 27, and 90 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Amend § 2.106 by revising pages 31 and 32 of the Table of Frequency Allocations and paragraphs (c)(116) and (268) to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

Table of Frequency Allocations		894–1400 MHz (UHF)			Page 31
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
890–942 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 Radiolocation	890–902 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation	890–942 FIXED MOBILE 5.317A BROADCASTING Radiolocation	890–902	(See previous page)	
				894–896 AERONAUTICAL MOBILE US116 US268	Public Mobile (22)
				896–901 FIXED MOBILE except aeronautical mobile US116 US268	Wireless Communications (27) Private Land Mobile (90)
	5.318 5.325		US116 US268 G2	901–902 FIXED MOBILE US116 US268	Personal Communications (24)
	902–928 FIXED Amateur Mobile except aeronautical mobile 5.325A Radiolocation 5.150 5.325 5.326		902–928 RADIOLOCATION G59 5.150 US218 US267 US275 G11	902–928 5.150 US218 US267 US275	RF Devices (15) ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97)
	928–942 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation		928–932	928–929 FIXED US116 US268 NG35	Public Mobile (22) Private Land Mobile (90) Fixed Microwave (101)
				929–930 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
				930–931 FIXED MOBILE US116 US268	Personal Communications (24)
			US116 US268 G2	931–932 FIXED LAND MOBILE US116 US268	Public Mobile (22)
			932–935 FIXED US268 G2	932–935 FIXED US268 NG35	Public Mobile (22) Fixed Microwave (101)
			935–941	935–940 FIXED MOBILE except aeronautical mobile US116 US268	Wireless Communications (27) Private Land Mobile (90)
				940–941 FIXED MOBILE US116 US268	Personal Communications (24)
			941–944 FIXED US84 US268 US301 G2	941–944 FIXED US84 US268 US301 NG30 NG35	Public Mobile (22) Aural Broadcast Auxiliary (74E) Low Power Auxiliary (74H) Fixed Microwave (101)
942–960 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322	942–960 FIXED MOBILE 5.317A	942–960 FIXED MOBILE 5.317A BROADCASTING	944–960	944–960 FIXED	

5.323		5.320		NG335	
960–1164 AERONAUTICAL MOBILE (R) 5.327A AERONAUTICAL RADIONAVIGATION 5.328			960–1164 AERONAUTICAL MOBILE (R) 5.327A AERONAUTICAL RADIONAVIGATION 5.328		Aviation (87)
5.328AA			US224		
1164–1215 AERONAUTICAL RADIONAVIGATION 5.328 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B			1164–1215 AERONAUTICAL RADIONAVIGATION 5.328 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space)		
5.328A			5.328A US224		
1215–1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329 5.329A SPACE RESEARCH (active)			1215–1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) G132 SPACE RESEARCH (active)	1215–1240 Earth exploration-satellite (active) Space research (active)	
5.330 5.331 5.332			5.332		
1240–1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329 5.329A SPACE RESEARCH (active) Amateur			1240–1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 SPACE RESEARCH (active) AERONAUTICAL RADIONAVIGATION	1240–1300 AERONAUTICAL RADIONAVIGATION Amateur Earth exploration-satellite (active) Space research (active)	Amateur Radio (97)
5.282 5.330 5.331 5.332 5.335 5.335A			5.332 5.335	5.282	
1300–1350 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.337 RADIONAVIGATION-SATELLITE (Earth-to-space)			1300–1350 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation G2	1300–1350 AERONAUTICAL RADIONAVIGATION 5.337	Aviation (87)
5.149 5.337A			US342	US342	
1350–1400 FIXED MOBILE RADIOLOCATION	1350–1400 RADIOLOCATION 5.338A		1350–1390 FIXED MOBILE RADIOLOCATION G2	1350–1390 5.334 5.339 US342 US385 G27 G114	
			1390–1395	1390–1395 FIXED MOBILE except aeronautical mobile	Wireless Communications (27)
			5.339 US79 US342 US385	5.339 US79 US342 US385 NG338A	
			1395–1400 LAND MOBILE (medical telemetry and medical telecommand)		Personal Radio (95)
5.149 5.338 5.338A 5.339	5.149 5.334 5.339		5.339 US79 US342 US385		

BILLING CODE 6712–01–C

* * * * *

(c) * * *

(116) US116 In the bands 890–902 MHz and 935–941 MHz, no new

assignments are to be made to Federal radio stations after July 10, 1970, except on a case-by-case basis to experimental stations. Federal assignments existing prior to July 10, 1970, shall be on a secondary basis to stations in the non-Federal mobile, except aeronautical mobile, service and shall be subject to adjustment or removal from the bands 890–902 MHz, 928–932 MHz, and 935–941 MHz at the request of the FCC.

* * * * *

(268) US268 The bands 890–902 MHz and 928–942 MHz are also allocated to the radiolocation service for Federal ship stations (off-shore ocean areas) on the condition that harmful interference is not caused to non-Federal stations in the mobile, except aeronautical mobile, service. The provisions of footnote US116 apply.

* * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 3. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

■ 4. Amend § 27.13 by revising paragraph (n) to read as follows:

§ 27.13 License period.

* * * * *

(n) *900 MHz broadband.* Authorizations for broadband licenses in the 897.5–900.5 MHz and 936.5–939.5 MHz bands or the 896–901 MHz and 935–940 MHz bands will have a term not to exceed 15 years from the date of initial issuance, and ten (10) years from the date of any subsequent renewal.

* * * * *

■ 5. Revise the heading to subpart P to read as follows:

Subpart P—Regulations Governing Licensing and Use of 900 MHz Broadband Service in the 896–901 MHz and 935–940 MHz Bands

■ 6. Revise § 27.1500 to read as follows:

§ 27.1500 Scope.

This subpart sets out the regulations governing the licensing and operations of 900 MHz broadband systems operating in the 897.5–900.5/936.5–939.5 MHz bands or in the 896–901/935–940 MHz bands. It includes eligibility requirements and operational and technical standards for stations licensed in these bands. It also supplements the rules regarding application procedures contained in part 1, subpart F of this chapter. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency band segments.

■ 7. Revise § 27.1501 to read as follows:

§ 27.1501 Definitions.

3/3 900 MHz broadband. The 900 MHz broadband systems in the 897.5–900.5/936.5–939.5 MHz band licensed by the Commission pursuant to this subpart.

3/3 900 MHz broadband licensee. An entity that holds a 3/3 900 MHz broadband license issued pursuant to this subpart.

3/3 900 MHz broadband segment. The segment of realigned 900 MHz spectrum (*i.e.,* the 897.5–900.5/936.5–939.5 MHz band) licensed by the Commission pursuant to this subpart.

5/5 900 MHz broadband. The 900 MHz broadband systems in the 896–901/935–940 MHz band licensed by the Commission pursuant to this subpart.

5/5 900 MHz broadband frequency range. Realigned 900 MHz spectrum (*i.e.,* the 896–901/935–940 MHz band) licensed by the Commission pursuant to this subpart.

5/5 900 MHz broadband licensee. An entity that holds a 5/5 900 MHz broadband license issued pursuant to this subpart.

900 MHz broadband. The 900 MHz broadband systems in the 897.5–900.5/936.5–939.5 MHz band and in the 896–901/935–940 MHz band licensed by the Commission pursuant to this subpart.

900 MHz broadband licensee. An entity that holds either a 3/3 900 MHz broadband license or a 5/5 900 MHz broadband license issued pursuant to this subpart.

900 MHz narrowband segment. The segments of realigned 900 MHz spectrum (*i.e.,* the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz bands (Paired channels 1–119 and 361–399)) designated for narrowband operations in markets with 3/3 900 MHz broadband and licensed pursuant to 47 CFR part 90, subpart S.

Complex system. A covered incumbent's system that consists of 45 or more functionally integrated sites as of May 13, 2020.

County. For purposes of this part, counties shall be defined using the United States Census Bureau's data reflecting county legal boundaries and names valid through January 1, 2017.

Covered incumbent. Any 900 MHz site-based licensee in the 900 MHz band that is required under § 90.621(b) of this chapter to be protected by a 3/3 or 5/5 900 MHz broadband licensee (as applicable) with a base station at any location within the county, or any 900 MHz geographic-based SMR licensee in the 3/3 MHz broadband segment or 5/5 900 MHz frequency range, as applicable, whose license area completely or partially overlaps the county.

Eligibility certification. A filing made to the Commission as part of the prospective broadband licensee's application for a 3/3 or 5/5 900 MHz broadband license that demonstrates satisfaction of the eligibility restrictions.

License area. The geographic component of a 3/3 or 5/5 900 MHz broadband license. A license area consists of one county.

Power spectral density (PSD). The power of an emission in the frequency domain, such as in terms of ERP or EIRP, stated per unit bandwidth, *e.g.,* watts/MHz.

Site-channel. A channel licensed at a particular location.

Transition plan. A filing made to the Commission as part of the prospective broadband licensee's application for a 3/3 or 5/5 900 MHz broadband license that includes a plan for transitioning the band in the particular county.

Transitioned market. See § 90.7 of this chapter.

■ 8. Amend § 27.1503 by revising paragraphs (a), (b)(2)(i) and (ii), (b)(3)(i)(A), (b)(3)(ii), (b)(3)(iii)(A) and (B), (c)(1) and (2), and adding paragraph (c)(3) to read as follows:

§ 27.1503 Broadband license eligibility and application requirements.

(a) *Eligibility*—(1) *3/3 900 MHz broadband license.* For an applicant to be eligible for a 3/3 900 MHz broadband license in a county, it must:

(i) Hold the licenses for more than 50% of the total amount of licensed 900 MHz SMR (site-based or geographically licensed) and B/ILT (site-based) spectrum for the relevant county, including credit for spectrum included in an application filed with the Commission on or after March 14, 2019, to relocate, negotiate cancellation of licenses of, or acquire spectrum held by covered incumbents; and

(ii) Meet a threshold of at least 90% of licensed channels in the 3/3 900 MHz broadband segment by: (A) Holding spectrum in the 3/3 900 MHz broadband segment, and/or (B) reaching an agreement to clear through relocation of or cancellation of the license(s) or acquisition of spectrum held by covered incumbents, including credit for spectrum included in an application

filed with the Commission on or after March 14, 2019; and/or (C) demonstrating how it will provide interference protection to covered incumbents' site-channels in the county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county.

(iii) The applicant for a 3/3 900 MHz broadband license may use its current holdings in the 900 MHz narrowband segment to relocate covered incumbents. Spectrum used for the purpose of relocating incumbents may not exceed the incumbents' current spectrum holdings in the relevant county, unless additional channels are necessary to achieve equivalent coverage and/or capacity.

(2) *5/5 900 MHz broadband license.* For an applicant to be eligible for a 5/5 900 MHz broadband license in a county, it must:

(i) Hold the licenses for more than 50% of the total amount of licensed 900 MHz spectrum for the relevant county, including credit for spectrum included in an application filed with the Commission on or after March 14, 2019, to relocate, negotiate cancellation of licenses of, or acquire spectrum held by covered incumbents;

(ii) As it pertains to the 897.5–900.5 MHz and 936.5–939.5 MHz bands, either (A) Hold a 3/3 900 MHz broadband license in the relevant county, or (B) meet a threshold of at least 90% of combined licensed channels by: (1) holding spectrum in the 3/3 900 MHz broadband segment, and/or (2) reaching an agreement to clear through relocation of or cancellation of the license(s) or acquisition of spectrum held by covered incumbents, including credit for spectrum included in an application filed with the Commission on or after March 14, 2019; and/or (3) demonstrating how it will provide interference protection to covered incumbents' site-channels in the county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county; and

(iii) As it pertains to the 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz bands, demonstrate that it has reached an agreement to clear through relocation of or cancellation of the license(s) or acquisition of spectrum held by all covered incumbents, or demonstrate how it will provide harmful interference protection to all covered incumbents holding site-based licenses in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county.

(3) *Interference protection.* To provide interference protection, an applicant for a 3/3 or 5/5 900 MHz broadband license may:

(i) Protect site-based covered incumbents through compliance with minimum spacing criteria set forth in § 90.621(b) of this chapter;

(ii) Protect site-based covered incumbents through new or existing letters of concurrence agreeing to lesser base station separations as set forth in § 90.621(b) of this chapter; and/or

(iii) Protect geographically based covered incumbent(s) through a private contractual agreement.

(4) *Complex system site protection.* If any site of a complex system is located within the county or within 70 miles of the county boundary, an applicant must either hold the license for that site or reach an agreement to acquire, relocate, negotiate cancellation of, or protect the site in order to demonstrate eligibility for a 3/3 or 5/5 900 MHz broadband license.

(b) * * *

(2) * * *

(i) Lists the licenses the applicant holds in the 900 MHz band to demonstrate that it holds the licenses for more than 50% of the total licensed 900 MHz spectrum in the relevant county to meet the requirements outlined in paragraph (a)(1)(i) or (a)(2)(i) of this section. Spectrum included in an application filed with the Commission on or after March 14, 2019, to relocate, negotiate cancellation of licenses of, or acquire spectrum held by covered incumbents will be counted toward the total licensed spectrum held by the applicant.

(ii) States that the applicant has filed a Transition Plan detailing how it meets the requirements outlined in paragraph (a)(1)(ii) or (a)(2)(ii) of this section and, if applicable, how it meets the requirements outlined in paragraph (a)(2)(iii) of this section.

(3) * * *

(i) * * *

(A) Agreement by covered incumbents to relocate from the 3/3 900 MHz broadband segment (for a 3/3 broadband license) or the 896–901 and 935–940 MHz bands (for a 5/5 broadband license), as applicable;

* * * * *

(ii) Descriptions of the agreements outlined in paragraphs (a)(1)(ii) and (a)(2)(ii) and (iii) of this section, if applicable.

(iii) * * *

(A) The applications that the parties to the agreements will file in order to relocate licensees or, in the case of 3/3 broadband licenses, to relocate or repack licensees in the 900 MHz narrowband segments;

(B) A description of how the applicant will provide interference protection to, and/or relocate or acquire spectrum held by covered incumbents, as outlined in paragraphs (a)(1)(ii) and (a)(2)(ii) and (iii) of this section, as applicable.

* * * * *

(c) * * *

(1) The applicant must return to the Commission all of its licensed 900 MHz spectrum, up to six megahertz for a 3/3 900 MHz broadband license and up to ten megahertz for a 5/5 900 MHz broadband license, for the county in which it seeks a broadband license. The applicant will be required to file, within 15 days of filing its broadband license application, an application(s) to cancel all of its 900 MHz broadband, SMR, and B/ILT spectrum, as applicable, up to six megahertz for a 3/3 900 MHz broadband license and up to ten megahertz for a 5/5 900 MHz broadband license, conditioned upon Commission grant of its application.

(2) If the applicant relinquishes less than six megahertz of spectrum for a 3/3 900 MHz broadband license or less than ten megahertz of spectrum for a 5/5 900 MHz broadband license in accordance with paragraph (c)(1) of this section, then the applicant must remit an anti-windfall payment prior to the grant of the 900 MHz broadband license. Payment must be made through a monetary payment to the general fund of the U.S. Treasury.

(3) For the purpose of calculating the windfall payment, if an applicant relinquished more than six megahertz of narrowband spectrum when it applied for its 3/3 900 MHz broadband license, then that 3/3 licensee may claim credit for the excess spectrum in its application for a 5/5 MHz broadband license for the same county. Any excess spectrum credit not claimed on its initial application is forfeited.

■ 9. Amend § 27.1504 by revising paragraphs (a) and (d), and the introductory text of paragraph (g) to read as follows:

§ 27.1504 Mandatory relocation.

(a) Subject to paragraph (b) of this section, 900 MHz broadband licensees may require mandatory relocation of covered incumbents from the 897.5–900.5 MHz and 936.5–939.5 MHz bands as follows: remaining site-channels in a given county or within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the

county, that were not covered by § 27.1503(a)(1)(ii) or 27.1503(a)(2)(ii).

* * * * *

(d) Having met the 90% success threshold referenced in § 27.1503, a 900 MHz broadband licensee seeking to trigger the mandatory relocation process shall serve notice on all applicable covered incumbents and file such notice in ULS as a pleading to the relevant call sign(s).

* * * * *

(g) A party seeking Commission resolution of a dispute must submit the request in writing to the Chief, Wireless Telecommunications Bureau, and file such notice in ULS as a pleading to the relevant call sign(s), including:

* * * * *

■ 10. Amend § 27.1505 by revising the section heading and paragraphs (b) through (d) to read as follows:

§ 27.1505 Performance requirements for 900 MHz broadband licenses.

* * * * *

(b) A 900 MHz broadband licensee must offer broadband service and meet a population coverage requirement or, alternatively, a geographic coverage requirement, by the applicable deadlines as follows:

(1) For a 3/3 broadband license, or a 5/5 broadband license that is not issued in exchange for a 3/3 900 MHz broadband license, the licensee is subject to the following benchmarks:

(i) *Interim performance requirement:* Within six years of license grant, a 900 MHz broadband licensee shall offer broadband service and either (A) provide reliable signal coverage to at least 45% of the population in its license area, or (B) demonstrate that it provides reliable signal coverage for at least 25% of the geographic license area.

(ii) *Final performance requirement.* Within 12 years of license grant, a 900 MHz broadband licensee shall offer broadband service and either (A) provide reliable signal coverage to at least 80% of the population in its license area, or (B) demonstrate that it provides reliable signal coverage for at least 50% of the geographic license area.

(2) For a 5/5 900 MHz broadband license issued in exchange for a 3/3 900 MHz broadband license prior to the 3/3 broadband license interim performance deadline, the licensee is subject to the following benchmarks:

(i) *Interim performance requirement:* Within two years from the date of the applicable interim performance deadline for the 3/3 broadband license, the 5/5 broadband licensee shall offer broadband service and either (A) provide reliable signal coverage to at least 45% of the population in its license area, or (B) demonstrate that it provides reliable signal coverage for at least 25% of the geographic license area.

(ii) *Final performance requirement.* Within two years from the date of the applicable final performance deadline for the 3/3 broadband license, a 5/5 broadband licensee shall offer broadband service and either (A) provide reliable signal coverage to at least 80% of the population in its license area, or (B) demonstrate that it provides reliable signal coverage for at least 50% of the geographic license area.

(3) For a 5/5 900 MHz broadband license issued in exchange for a 3/3 900 MHz broadband license after the 3/3 broadband licensee has met its applicable interim performance deadline but prior to its applicable final performance deadline for the 3/3 license, the licensee will be subject to the following final performance requirement: within two years from the date of the applicable final performance deadline for the 3/3 broadband license, a 5/5 broadband licensee shall offer broadband service and either (A) provide reliable signal coverage to at least 80% of the population in its license area, or (B) demonstrate that it provides reliable signal coverage for at least 50% of the geographic license area. Such licensee will not be subject to an interim performance requirement for the 5/5 broadband license.

(4) For a 5/5 900 MHz broadband license issued in exchange for a 3/3 900 MHz broadband license after the 3/3 broadband licensee has met its applicable final performance requirement, the 5/5 broadband licensee will be subject to the following final performance requirement: within two years from the date of grant of the 5/5 broadband license, a 5/5 broadband licensee shall offer broadband service and either (A) provide reliable signal coverage to at least 80% of the population in its license area, or (B) demonstrate that it provides reliable signal coverage for at least 50% of the geographic license area. Such licensee will not be subject to an interim performance requirement for the 5/5 broadband license.

(c) * * *

(1)(i) A 3/3 broadband licensee that fails to meet its interim performance benchmark will be required to meet its final performance benchmark two years sooner (*i.e.,* at 10 years into the license term), and its license term will be reduced to 13 years.

(ii) Except in cases where a licensee received its 5/5 900 MHz broadband license in exchange for a 3/3 900 MHz broadband license, a 5/5 broadband licensee that fails to meet its applicable interim performance benchmark will be required to meet its final performance benchmark two years sooner (*i.e.,* at 10 years into the license term), and its license term will be reduced to 13 years.

(iii) A 5/5 broadband licensee that received its 5/5 license in exchange for a 3/3 900 MHz broadband license and that fails to meet its applicable interim performance benchmark, as described in paragraph (b)(2)(i) or (ii) of this section, will be subject to a revised final performance deadline that is accelerated by two years, and its applicable license term will be reduced by two years.

* * * * *

(d) *Continuity of Operations.* After satisfying its final performance benchmark, a licensee is required to continue to provide coverage and offer broadband service at or above that same level for the remaining period of the license term and thereafter. See 47 CFR 1.949 (Application for Renewal of Authorization).

■ 11. Revise § 27.1506 to read as follows:

§ 27.1506 Frequencies.

The 897.5–900.5 MHz and 936.5–939.5 MHz band segments are available for licensing with an authorized bandwidth up to 3 megahertz paired channels. The 896–901 MHz and 935–940 MHz bands are available for licensing with an authorized bandwidth up to 5 megahertz paired channels. The 897.5–900.5 MHz band segment or 896–901 MHz band segment, as applicable, must only be used for uplink transmissions. The 936.5–939.5 MHz band segment or 935–940 MHz band segment, as applicable, must only be used for downlink transmissions.

■ 12. Amend § 27.1509 by revising paragraphs (a) and (b) to read as follows:

§ 27.1509 Emission limits.

* * * * *

(a) For 900 MHz broadband operations in the 896–901 MHz band, by at least 43 + 10 log (P) dB.

(b) For 900 MHz broadband operations in the 935–940 MHz band, by at least 50 + 10 log (P) dB.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 13. The authority citation for part 90 continues to read as follows:

Authority: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401–1473.

■ 14. Amend § 90.7 by:

■ a. Removing the definition of ''900 MHz broadband segment'';

■ b. Adding the definitions of ''3/3 900 MHz broadband'', ''3/3 900 MHz broadband licensee'', ''3/3 900 MHz broadband segment'', ''5/5 900 MHz broadband'', ''5/5 900 MHz broadband frequency range'', and ''5/5 900 MHz broadband licensee''; in alphanumerical order and

■ c. Revising the definition of ''Transitioned market''.

The revisions and addition read as follows:

§ 90.7 Definitions.

* * * * *

3/3 900 MHz broadband. See 47 CFR 27.1501.

3/3 900 MHz broadband licensee. See 47 CFR 27.1501.

3/3 900 MHz broadband segment. See 47 CFR 27.1501.

5/5 900 MHz broadband. See 47 CFR 27.1501.

5/5 900 MHz broadband frequency range. See 47 CFR 27.1501.

5/5 900 MHz broadband licensee. See 47 CFR 27.1501.

* * * * *

Transitioned market. A geographic area in which the 900 MHz band has been reconfigured to consist of a 3/3 900 MHz broadband licensed area in the 3/3 900 MHz broadband segment and 900 MHz narrowband segments pursuant to part 27 of this chapter. A geographic area that has been reconfigured to consist of a 5/5 900 MHz broadband license area is not part of this definition.

* * * * *

■ 15. Amend § 90.613 by revising the introductory text to read as follows:

§ 90.613 Frequencies available.

The following table indicates the channel designations of frequencies available for assignment to eligible applicants under this subpart. Frequencies shall be assigned in pairs, with mobile and control station transmitting frequencies taken from the 806–824 MHz band with corresponding base station frequencies being 45 MHz higher and taken from the 851–869 MHz band, or with mobile and control station frequencies taken from the 896–901 MHz band with corresponding base station frequencies being 39 MHz higher and taken from the 935–940 MHz band. For operations in the 897.5–900.5 MHz and 936.5–939.5 MHz bands (Channels 120–360), no new applications will be accepted in a 3/3 900 MHz broadband transitioned market for a narrowband system under part 90, subpart S of this chapter. For operations in the 896–901 MHz and 935–940 MHz bands (Channels 1–399), no new applications will be accepted in markets transitioned to 5/5 900 MHz broadband for narrowband systems under part 90, subpart S of this chapter. Only the base station transmitting frequency of each pair is listed in the following table.

* * * * *

■ 16. Amend § 90.616 by revising paragraph (a)(3) to read as follows:

§ 90.616 896–897.5/935–936.5 MHz and 900.5–901/939.5–940 MHz narrowband segments.

(a) * * *

(3) Business/Industrial/Land Transportation Pool and Specialized Mobile Radio licensees authorized as of September 13, 2018, for relocation to the 900 MHz narrowband segments from the 3/3 900 MHz broadband segment pursuant to part 27, subpart P, of this chapter.

* * * * *

■ 17. Amend § 90.621 by adding paragraph (b)(8) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(b) * * *

(8) Except as provided in paragraph (b)(5) and subject to paragraph (b)(6) of this section, new or modified 900 MHz narrowband systems must meet the co-channel separation distances set forth in paragraph (b)(4) of this section with respect to an incumbent 900 MHz broadband system's licensed market boundary.

* * * * *

■ 18. Amend § 90.672 by revising paragraphs (a)(1)(i)(C) and (D) to read as follows:

§ 90.672 Unacceptable interference to non-cellular 800 MHz licensees from 800 MHz cellular systems or part 22 Cellular Radiotelephone systems, and within the 900 MHz narrowband segments, and to narrowband 900 MHz licensees from 900 MHz broadband licensees.

(a) * * *

(1) * * *

(i) * * *

(C) From the 3/3 900 MHz broadband segment or 5/5 900 MHz broadband frequency range, a median desired signal strength of –104 dBm or higher if operating in the 900 MHz narrowband segment, as measured at the R.F. input of the receiver of a mobile unit; or

(D) From the 3/3 900 MHz broadband segment or 5/5 900 MHz broadband frequency range, a median desired signal strength of –101 dBm or higher if operating in the 900 MHz narrowband segment, as measured at the R.F. input of the receiver of a portable, *i.e.,* hand-held, unit; and either

* * * * *

[FR Doc. 2026–06239 Filed 3–30–26; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 91, No. 61
Tuesday, March 31, 2026

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

[Docket No. RHS–26–SFH–0100]

RIN 0575–AD45

Single Family Housing Guaranteed Loan Program—Income Producing Accessory Dwelling Unit (ADU) Provisions

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

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or the Agency), an agency of the Rural Development mission area within the United States Department of Agriculture (USDA), is issuing a proposed rule to amend the current Single Family Housing Guaranteed Loan Program (SFHGLP) regulation. These proposed changes are intended to allow the Agency to finance a single family home with a single or multiple income producing Accessory Dwelling Units (ADU). Additionally, we propose to clarify that borrowers can finance properties with features designed to accommodate home-based operations with non-commercial real estate features. The plain language summary of the proposal is available on *Regulations.gov* in the docket for rulemaking.

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

ADDRESSES: Comments may be submitted by going to the Federal eRulemaking Portal, *regulations.gov/*. In the ''Search for dockets and documents on agency actions'' box, enter the docket number, RHS–26–SFH–0100, and click ''Search'' button. From the search results: click on or locate the document title: ''Single Family Housing Guaranteed Loan Program—Income Producing Accessory Dwelling Unit (ADU) Provisions'' and select the ''Comment'' button. Before inputting comments, commenters may review the ''Commenter's Checklist'' (optional). To submit a comment: Insert comments under the ''Comment'' title, click ''Browse'' to attach files (if available), input email address, select box to opt to receive email confirmation of submission and tracking (optional), select the box ''I'm not a robot,'' and then select ''Submit Comment''. Information on using *Regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available under the site's ''FAQ'' link. All comments will be available for public inspection online at the Federal eRulemaking Portal (*regulations.gov*).

Other Information: Additional information about Rural Development and its programs is available on the internet at *https://www.rd.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Freeman, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, Rural Development, U.S. Department of Agriculture, STOP 0784, Room 2250, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–0784. Telephone: (314) 457–6413; or email: *stephanie.freeman@usda.gov*.

SUPPLEMENTARY INFORMATION:

Abbreviations

ADU Accessory Dwelling Unit
CFR Code of Federal Regulations
FNMA Fannie Mae
FHA Federal Housing Administration
FR Federal Register
FHLMC Freddie Mac
HUD Department of Housing and Urban Development
RHS Rural Housing Service
§ Section
SEQ. Sequentes
SFHGLP Single Family Housing Guaranteed Loan Program
U.S.C. United States Code
USPAP Uniform Standards of Professional Appraisal Practice
VA The Department of Veterans Affairs

I. Statutory Authority

The SFHGLP is authorized by Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)), as amended, and implemented by 7 CFR part 3555.

II. Background

The RHS offers an array of programs to develop and enhance housing and critical community infrastructure in rural areas. The Agency offers loans, grants, and loan guarantees for single and multi-family housing, childcare centers, emergency services facilities, hospitals, libraries, nursing homes, schools, and housing for agricultural workers, among other essential projects. Additionally, the RHS collaborates with non-profits, tribal governments, and state/federal agencies to offer technical assistance and supplementary financing to local communities.

Under the authority of the Housing Act of 1949, (42 U.S.C. 1471 *et seq.*), as amended, the SFHGLP makes loan guarantees to provide low and moderate income persons in rural areas an opportunity to own decent, safe, and sanitary dwellings and related facilities. Approved lenders make the initial eligibility determinations, and the Agency reviews those determinations to make a final eligibility decision.

In an effort to boost homeownership, the federal government has introduced new initiatives that provide prospective buyers with greater flexibilities for financing properties with ADUs. There is a growing demand for affordable housing, coupled with a limited amount of land available for development in many rural communities, which has made it necessary to consider the financing of properties with an ADU. ADUs offer numerous community benefits, including increasing overall housing supply and providing affordable living options for low- and moderate-income families. It can be created within or added to the primary dwelling through the conversion of existing space, such as an attic or basement; constructed as separate structures over an existing accessory building, such as a garage; or built independently from the primary residential structure as a residential unit.

Homeownership options are limited for many Americans. The Agency has recognized that ADUs can offer a variety of benefits, including increasing a community's housing supply by adding or introducing new and innovative housing typologies of smaller scale, providing a more affordable housing option for many low- and moderate-income residents. It provides a means to generate additional income for borrowers. These additional benefits support the goal of increasing the stock

of affordable housing while creating innovative solutions and expanding opportunities for homeownership stability.

III. Discussion of the Proposed Rule

A. Agency Definitions of an Accessory Dwelling Unit (ADU) and Living Unit

ADUs, also known as in-law apartments, casitas, carriage houses, second units, or granny flats, became a common feature in single-family homes in the early 1900s. The post-WWII housing boom and suburbanization further increased demand for these supplementary living spaces. Regardless of the terminology used, ADUs are self-contained living spaces with kitchens or kitchenettes and bathrooms, or comparable space, in an open floor plan that are built on the same lot as a single-family home. These separate living quarters can be attached to, or detached from, the primary dwelling. Today, they are widely recognized as a valuable housing option in communities across the country.

The Agency currently considers an ADU as a habitable living unit, within or detached from a single-family dwelling, which together with the single-family dwelling constitutes a single interest in real estate. Neither the definition of an ADU or a living unit is currently defined in program regulations. The Agency is proposing to formally codify the definition of an ADU in 7 CFR 3555.10 as a habitable living unit, either within or detached from a single family dwelling. The ADU must be a private space that is subordinate in size, has means of separate ingress and egress that meets HUD's minimum requirements for a living unit, and together with the single-family dwelling constitutes a single interest in real estate. Furthermore, the Agency proposes to add the definition of a living unit in 7 CFR 3555.10 to provide the minimum requirements for a unit to be considered a living unit for this purpose. The other major federal housing agencies, such as the Federal Housing Administration (FHA) and the Department of Veterans Affairs (VA), as well as government-sponsored enterprises (GSE) Fannie Mae (FNMA) and Freddie Mac (FHLMC), use comparable definitions.

B. Accessory Dwelling Unit Changes

Under 7 CFR 3555.102(b), the purchase or improvement of land or buildings that are typically used principally for income-producing purposes is prohibited. Additionally, 7 CFR 3555.201(b)(2) states that a site must not include income-producing land or buildings to be used principally for income-producing purposes. A qualified property must be predominantly residential in use, character, and appearance. The Agency currently prohibits financing a property that includes an income-producing building, such as a freestanding ADU, to be used for income-generating purposes. However, ADUs on the subject property that do not produce income, but are used to support multigenerational households, are consistent with program requirements. In an effort to continue delivering meaningful solutions that increase the affordable housing supply and promote homeowner financial stability, the Agency proposes to amend 7 CFR 3555.102(b) and 3555.201(b)(2), to clarify that properties that include, or will include, a single or multiple ADUs constitute an eligible loan purpose.

C. Financing Homes With Home-Based Business Operations

The Agency's current program regulations do not provide guidance on whether properties with features allowing for home-based operations such as childcare, product sales, or craft production, are accepted or excluded. The presence of such features may provide an opportunity for an additional income stream for the borrower, however the property remains a residential home, consistent with the intent of the SFHGLP. Therefore, the Agency is proposing to amend 7 CFR 3555.102(c), to provide clarity regarding features designed to accommodate home-based business operations, making it eligible for the SFHGLP.

IV. Request for Comment

Stakeholder input is vital to ensure the proposed changes in the proposed rule would support the Agency's mission, while ensuring that new regulations and policies are reasonable and do not overly burden the Agency's lenders and their customers. Comments must be submitted on or before June 1, 2026 and may be submitted electronically by going to the Federal eRulemaking Portal: *http://www.regulations.gov.* Details on how to submit comments to the Federal eRulemaking Portal are in the **ADDRESSES** section of this proposed rule.

V. Summary of Changes

RHS is proposing to make the following changes to 7 CFR part 3555:

(1) Add the definitions of an *Accessory Dwelling Unit (ADU)* and a *Living Unit* in 7 CFR 3555.10 which would clarify the understanding of these terms.

(2) Update section 7 CFR 3555.102(b) to allow the Agency to issue a guarantee if loan funds are used for a single or multiple income producing ADUs.

(3) Update section 7 CFR 3555.102(c) to allow the Agency to issue a guarantee if loan funds are used to finance a property which accommodates a home-based operation.

(4) Update section 7 CFR 3555.201(b)(2) to clarify that borrowers are allowed to finance sites that include an income producing ADU.

VI. Executive Orders and Statutory Regulatory Review Requirements

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is not subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented under USDA's regulations.

Executive Order 12866, Regulatory Planning and Review

This rule has been determined to be significant under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. In accordance with Executive Order 12866, an Economic Impact Analysis was completed, outlining the costs and benefits of implementing this program in rural America. The complete analysis is available from *Regulations.gov* by searching for the Docket number [RHS–26–SFH–0100].

Executive Order 12988, Civil Justice Reform

This proposed rulemaking has been reviewed under Executive Order 12988. In accordance with this rule: (1) unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Executive Order 13132, Federalism

The policies contained in this proposed rulemaking do not have any substantial direct effect on states, on the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government. This proposed rule does not impose substantial direct

compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Consultation is also required for any regulation that preempts tribal law or that imposes substantial direct compliance costs on Indian tribal governments and that is not required by statute. The Agency has determined that this proposed rule does not, to our knowledge, have tribal implications that require formal tribal consultation under Executive Order 13175. If a Tribe requests consultation, the Rural Housing Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effect of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to state, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, and tribal governments, or the private sector. Therefore, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this proposed rule has been reviewed in accordance with 7 CFR part 1b (''National Environmental Policy Act''). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1b.4(c)(31); (ii) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action''. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Regulatory Flexibility Act

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

Civil Rights Impact Analysis

RD has reviewed this proposed rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, political beliefs, marital status, familial status, parental status, veteran status, religion, reprisal and/or resulting from all or a part of an individual's income being derived from any public assistance program. This proposed rule is within a Guarantee-based program. Guarantees are not covered under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title IX of the Education Amendments Act of 1972, as amended, when the Federal assistance does not include insurance or interest credit loans. Lenders must comply with other applicable Federal laws, including Equal Employment Opportunities, the Equal Credit Opportunity Act, the Fair Housing Act, and the Civil Rights Act of 1964. Guaranteed loans that involve the construction of or addition to facilities that accommodate the public must comply with the Architectural Barriers Act Accessibility Standard. The borrower and lender are responsible for ensuring compliance with these requirements.

Assistance Listing Number

The program affected by this proposed rule is listed in the Assistance Listing (AL) Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

This proposed rule contains no new reporting or recordkeeping burdens under OMB control number 0575–0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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List of Subjects in 7 CFR Part 3555

Administrative practice and procedure, Business and industry, Conflicts of interest, Credit, Environmental impact statements, Fair housing, Flood insurance, Grant programs—housing and community development, Home improvement, Housing, Loan programs—housing and community development, Low and moderate income housing, Manufactured homes, Mortgage insurance, Mortgages, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter XXXV of the title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

■ 1. The authority citation for Part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

Subpart A—General

■ 2. Amend § 3555.10 by adding the definitions of an *Accessory Dwelling Unit* and a *Living Unit* to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Accessory Dwelling Unit. A habitable living unit, within or detached from a single family dwelling, that is a private space that is subordinate in size, has means of separate ingress and egress that meets the minimum requirements for a living unit, which together constitutes a single interest in real estate.

Living Unit. To constitute a living unit, the unit must contain a continuous and sufficient supply of safe and potable water, sanitary facilities and a safe method of sewage disposal, heating adequate for healthful and comfortable living conditions, domestic hot water, electricity adequate for lighting and mechanical equipment, and kitchen facilities adequate for the preparation and cooking of food. The unit must contain at least one bathroom, or similar space, which includes a water closet, lavatory, and bathtub or shower; and kitchen or kitchenette facilities which include a sink with potable running water and a stove utility hookup, or similar cooking instrument.

* * * * *

Subpart C—Loan Requirements

■ 3. Amend § 3555.102 by revising paragraph (b) and (c) to read as follows:

§ 3555.102 Loan Restrictions.

* * * * *

(a) * * *

(b) *Income producing land or buildings.* Purchase or improvement of land or buildings that are typically used principally for income-producing purposes, except this restriction shall not apply where loan funds are to be used for the financing of an otherwise qualifying property that contains or will contain a single or multiple accessory dwelling units;

(c) *Business or income-producing enterprise.* Purchase or the construction of buildings which are largely or in part specifically designed to accommodate a business or income-producing enterprise. This restriction shall not apply where loan funds are to be used for the financing of an otherwise qualifying property with design features that accommodate a home-based business or businesses; such as childcare, product sales, or craft production; that do not require specific commercial real estate features;

* * * * *

Subpart E—Underwriting the Property

■ 4. Amend § 3555.201 by revising paragraph (b)(2) to read as follows:

§ 3555.201 Site Requirements.

* * * * *

(b) * * *

(1) * * *

(2) The site must not include income-producing land or buildings to be used principally for income-producing purposes, except this limitation shall not apply where the site is otherwise qualified and contains or will contain a single or multiple accessory dwelling units. Vacant land without eligible residential improvements, or property used primarily for agriculture, farming or commercial enterprise is ineligible for a loan guarantee.

* * * * *

Anthony Priest,

Chief of Staff, Rural Housing Service.

[FR Doc. 2026–06173 Filed 3–30–26; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2023–BT–STD–0005]

RIN 1904–AF51

Energy Conservation Program: Energy Conservation Standards for Fluorescent Lamp Ballasts

AGENCY: Office of Critical Minerals and Energy Innovation, Department of Energy.

ACTION: Notification of proposed determination, request for comment, and announcement of webinar.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including fluorescent lamp ballasts (''FLBs''). EPCA also requires the U.S. Department of Energy (''DOE'') to periodically review its existing standards to determine whether more-stringent standards would be technologically feasible and economically justified, and would result in significant energy savings. In this notification of proposed determination (''NOPD''), DOE has initially determined that amended energy conservation standards for fluorescent lamp ballasts would not be cost-effective, and therefore, DOE has tentatively determined that energy conservation standards for FLBs should not be amended. DOE requests comment on this proposed determination and the associated analyses and results.

DATES:

Comments: Written comments, data, and information are requested on all aspects of this NOPD and will be accepted on or before June 1, 2026.

Meeting: DOE will hold a public meeting webinar on Wednesday, April 22 from 1 to 3 p.m. ET. *See* section VI, ''Public Participation,'' for webinar registration information, participant instructions, and information about the

capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE–2023–BT–STD–0005. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2023–BT–STD–0005 and/or regulatory identification number (''RIN'') 1904–AF51, by any of the following methods:

(1) *Email: FLB2023STD0005@ee.doe.gov.* Include the docket number EERE–2023–BT–STD–0005 and/or RIN 1904–AF51 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, *see* section VI (Public Participation) of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *www.regulations.gov/docket/EERE-2023-BT-STD-0005.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. *See* section VI, ''Public Participation,'' of this document for further information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Critical Minerals and Energy Innovation, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 994–8232. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Ani Esenyan or Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–4798. Email: *Ani.Esenyan@hq.doe.gov* or *Eric.Stas@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Synopsis of the Proposed Determination

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309, as codified) These products include fluorescent lamp ballasts, the subject of this document. (42 U.S.C. 6292(a)(13))

Pursuant to EPCA, DOE is required to review its existing energy conservation standards for covered consumer products no later than three years after a determination that standards for the product do not need to be amended. (42 U.S.C. 6295(m)(3)(B)) Pursuant to that statutory provision, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (*Id.*) DOE has conducted this review of the energy conservation standards for fluorescent lamp ballasts under EPCA's three-year-lookback authority described herein.

In accordance with these and other statutory provisions discussed in this document, DOE analyzed the benefits and burdens of potential amended energy conservation standards for fluorescent lamp ballasts currently subject to standards specified in the Code of Federal Regulations (''CFR'') at 10 CFR 430.32(m).

DOE first analyzed the technological feasibility of more energy efficient fluorescent lamp ballasts. For those fluorescent lamp ballasts for which DOE determined higher standards to be technologically feasible, DOE evaluated whether higher standards would be cost-effective. Based upon this review,

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflects the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

DOE has tentatively determined that the market and technology characteristics of fluorescent lamp ballasts are largely similar to those analyzed in the previous rulemaking, which concluded with the publication of a final rule in the **Federal Register** determining not to amend standards. 85 FR 81558 (Dec. 16, 2020) (''December 2020 Final Determination''). In the December 2020 Final Determination, DOE concluded that amended standards for fluorescent lamp ballasts would not be cost-effective and would not result in significant energy savings. Therefore, DOE has tentatively determined that the conclusions reached in the December 2020 Final Determination regarding the benefits and burdens of more-stringent standards for fluorescent lamp ballasts are still relevant and applicable to the fluorescent lamp ballast (''FLB'') market today.

Hence, DOE has tentatively determined that the current standards for fluorescent lamp ballasts do not need to be amended and is issuing this NOPD accordingly.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed determination, as well as historical background related to the establishment of standards for fluorescent lamp ballasts.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified) Title III, Part B [3] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309, as codified) These products include fluorescent lamp ballasts, the subject of this document. (42 U.S.C. 6292(a)(13))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy conservation requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy use or efficiency of covered products. (42 U.S.C. 6297(b)–(c)) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (42 U.S.C. 6297(d))

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, water use (as applicable) or estimated annual operating cost of each covered product during a representative average use cycle or period of use, and the statute further requires that the test procedure not be unduly burdensome to conduct. (42 U.S.C. 6293, 42 U.S.C. 6295(o)(3)(A), and 42 U.S.C. 6295(r)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their product complies with the applicable energy conservation standards and as the basis for any representations regarding the energy use or energy efficiency of the product. (42 U.S.C. 6293(c) and 42 U.S.C. 6295(s)) Similarly, DOE must use these test procedures to evaluate whether a basic model of the product complies with the applicable energy conservation standard(s) adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for fluorescent lamp ballasts appear at 10 CFR 430.23(q) and 10 CFR part 430, subpart B, appendix Q.

Not later than three years after the issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a NOPD or NOPR is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2)) Not later than two years after a NOPR is issued, DOE must publish a final rule amending the energy conservation standard for the product. (42 U.S.C. 6295(m)(3)(A))

A determination that amended standards are not needed must be based on consideration of whether amended standards will result in significant conservation of energy, are technologically feasible, and are cost-effective as described at 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) Under 42 U.S.C. 6295(o)(2)(B)(i)(II), an evaluation of cost-effectiveness requires DOE to consider savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard. (42 U.S.C. 6295(n)(2) and 42 U.S.C. 6295(o)(2)(B)(i)(II))

DOE is publishing this NOPD pursuant to the three-year-lookback review requirement in EPCA under 42 U.S.C. 6295(m)(3)(B), as described herein.

B. Background

1. Current Standards

DOE most recently completed a review of its fluorescent lamp ballast standards in a final rule published in the **Federal Register** on November 14, 2011 (''2011 FL Ballast Rule''), through which DOE prescribed the current energy conservation standards for fluorescent lamp ballasts manufactured on and after November 14, 2014. 76 FR 70548.[4] These standards apply to fluorescent lamp ballasts designed and marketed to operate at nominal input voltages at or between 120 and 277 volts; with an input current frequency of 60 Hertz; and for use in connection with fluorescent lamps as defined in 10 CFR 430.2. These standards require a minimum power factor of 0.9 or greater for ballasts that are not residential ballasts or 0.5 or greater for residential ballasts. Fluorescent lamp ballasts (other than dimming ballasts) are subject to a minimum ballast luminous efficiency (''BLE'') as set forth in DOE's regulations at 10 CFR 430.32(m)(1) and repeated in Table II.1 of this document. *See* 10 CFR 430.32(m)(1).

Dimming ballasts that operate one F34T12, two F34T12, two F96T12/ES, or two F96T12HO/ES lamps and that are designed and marketed to operate at or between 120 and 277 volts; with an input current frequency of 60 Hertz; and for use in connection with fluorescent lamps as defined in 10 CFR 430.2 are also subject to the standards set in the 2011 fluorescent lamp ballast rule. These standards also require a minimum power factor of 0.9 or greater for ballasts that are not residential ballasts or 0.5 or greater for residential ballasts. Dimming ballasts are subject to a minimum BLE requirement as set forth at 10 CFR 430.32(m)(2) and repeated in

[3] As noted previously, for editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[4] *Note:* Standards for fluorescent lamp ballasts codified at 10 CFR 430.32(m), which were adopted in the 2011 FL Ballast Rule, were reorganized in a final rule published in the **Federal Register** on June 5, 2015. 80 FR 31971, 31972–31974.

Table II.2 of this document. *See* 10 CFR 430.32(m)(2).

However, the power factor and BLE standards described in 10 CFR 430.32(m)(1) and 10 CFR 430.32(m)(2) do not apply to the following exempted ballasts: (1) A dimming ballast designed and marketed to operate exclusively lamp types other than one F34T12, two F34T12, two F96T12/ES, or two F96T12HO/ES lamps; (2) a low frequency ballast that is designed and marketed to operate T8 diameter lamps; is designed and marketed for use in electromagnetic-interference-sensitive-environments only; and is shipped by the manufacturer in packages containing 10 or fewer ballasts; or (3) a programmed start ballast that operates 4-foot medium bipin T8 lamps and delivers on average less than 140 milliamperes to each lamp. *See* 10 CFR 430.32(m)(3).

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR FLUORESCENT LAMP BALLASTS

[Other than dimming ballasts]

BLE = A/(1 + B × average total lamp arc power ^ −C) Where A, B, and C are as follows:			
Description	A	B	C
Instant start and rapid start ballasts (not classified as residential ballasts) that are designed and marketed to operate: —4-ft medium bipin lamps —2-ft U-shaped lamps; or —8-ft slimline lamps.	0.993	0.27	0.25
Programmed start ballasts (not classified as residential ballasts) that are designed and marketed to operate: —4-ft medium bipin lamps —2-ft U-shaped lamps; —4-ft miniature bipin standard output lamps; or —4-ft miniature bipin high output lamps.	0.993	0.51	0.37
Instant start and rapid start ballasts (not classified as sign ballasts) that are designed and marketed to operate 8-ft high output lamps	0.993	0.38	0.25
Programmed start ballasts (not classified as sign ballasts) that are designed and marketed to operate 8-ft high output lamps	0.973	0.70	0.37
Sign ballasts that are designed and marketed to operate 8-ft high output lamps	0.993	0.47	0.25
Instant start and rapid start residential ballasts that are designed and marketed to operate: —4-ft medium bipin lamps —2-ft U-shaped lamps; or —8-ft slimline lamps.	0.993	0.41	0.25
Programmed start residential ballasts that are designed and marketed to operate: —4-ft medium bipin lamps or —2-ft U-shaped lamps.	0.973	0.71	0.37

TABLE II.2—FEDERAL ENERGY CONSERVATION STANDARDS FOR CERTAIN DIMMING FLUORESCENT LAMP BALLASTS

Designed and marketed for operation of a maximum of	Nominal input voltage	Total nominal lamp watts	Ballast luminous efficiency	
			Low-frequency ballasts	High-frequency ballasts
One F34T12 lamp	120/277	34	0.777	0.778
Two F34T12 lamps	120/277	68	0.804	0.805
Two F96T12/ES lamps	120/277	120	0.876	0.884
Two F96T12HO/ES lamps	120/277	190	0.711	0.713

2. History of Standards Rulemakings for Fluorescent Lamp Ballasts

In accordance with EPCA requirements detailed in section II.A of this document, DOE completed the first of the statutorily required rulemaking cycles by publishing a final rule in the **Federal Register** on September 19, 2000, that adopted amended performance standards for fluorescent lamp ballasts manufactured on or after April 1, 2005. 65 FR 56740. Covered fluorescent lamp ballasts manufactured or imported after the compliance date of April 1, 2005, were required to meet those amended standards. Subsequently, on October 18, 2005, DOE published a final rule technical amendment in the **Federal Register** codifying the new FLB standards established in section 135(c)(2) of the Energy Policy Act of 2005 (Pub. L. 109–58; ''EPACT 2005'') into DOE's regulations at 10 CFR 430.32(m). 70 FR 60407. Additionally, DOE completed a second rulemaking cycle to amend the standards for fluorescent lamp ballasts by publishing a final rule in the **Federal Register** on November 14, 2011. 76 FR 70548. DOE completed a third rulemaking cycle for fluorescent lamp ballasts by publishing a final determination to not amend standards in the **Federal Register** on December 16, 2020 (*i.e.,* the December 2020 Final Determination). 85 FR 81558.

As noted previously, the current energy conservation standards for fluorescent lamp ballasts are located in 10 CFR 430.32(m). The currently applicable DOE test procedures for fluorescent lamp ballasts appear at 10 CFR part 430, subpart B, appendix Q.

In support of the present review of the FLB energy conservation standards, DOE published a request for information (''RFI'') in the **Federal Register** on March 27, 2023, which identified various issues on which DOE sought comment to inform its consideration of whether the standards need to be amended. 88 FR 18086 (''March 2023 RFI'').

DOE received comments in response to the March 2023 RFI from the interested parties listed in Table II.3.

TABLE II.3—MARCH 2023 RFI WRITTEN COMMENTS

Commenter(s)	Reference in this NOPD	Comment No. in the docket	Commenter type
New York State Energy Research and Development Authority.	NYSERDA	2	State Official/Agency.
National Electrical Manufacturers Association	NEMA	3	Trade Association.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[5]

III. Rationale of Analysis and Discussion of Related Comments

In response to the March 2023 RFI, NYSERDA stated that it supports DOE's consideration of efficiency improvements for fluorescent lamp ballasts. The commenter stated that because of the availability of more light-emitting diode (''LED'') replacement options, it is necessary to reassess the FLB market. (NYSERDA, No. 2 at p. 1) NEMA stated that one of its larger member lighting companies has announced it will stop selling fluorescent and high-intensity discharge (''HID'') products and shift to a full LED portfolio by the end of 2023 and that others have made similar announcements. NEMA also commented that State and local energy codes indirectly mandate LED technology by requiring energy efficiency that cannot be met by other technologies. Additionally, NEMA commented that several States have enacted, or are in the process of enacting, bans on the sale of linear fluorescent lamps. NEMA stated that in 2020, DOE sensibly published a final determination to not amend standards for fluorescent lamp ballasts because of manufacturer divestment from fluorescent and HID technologies concurrent with investment in solid-state lighting (''SSL''), which is a downward market trend that remains valid in 2023. NEMA recommended that DOE should determine not to amend FLB standards, as such an update would not produce measurable energy savings or be technologically feasible or economically justified. (NEMA, No. 3 at pp. 1–2)

For this review of FLB standards, DOE has tentatively determined that, since the December 2020 Final Determination analysis, there has been no substantial change in: (1) product offerings of fluorescent lamp ballasts to warrant a change in scope of analysis or product classes or (2) technologies or design options that could improve the energy efficiency of fluorescent lamp ballasts. Additionally, DOE has tentatively determined that, since the December 2020 Final Determination, there has been: (1) a slight increase in operating hours, (2) a continued reduction in shipments, and (3) continued market and industry trends away from FLB technology. As such, DOE has tentatively determined that the analysis conducted for the December 2020 Final Determination and its conclusion remains valid that amending energy conservation standards for fluorescent lamp ballasts would not be cost-effective. DOE requests comments on its tentative conclusion that because no substantive changes have occurred in the technology of fluorescent lamp ballasts and significant reduction in shipments, the conclusion of the December 2020 Final Determination not to amend FLB standards remains valid.

The following sections discuss the status of the current FLB market as well as issues raised in comments received in response to the March 2023 RFI.

A. Scope of Coverage

In this analysis, a ''fluorescent lamp ballast'' is defined as a device that is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation. 10 CFR 430.2. Any product meeting the definition of ''fluorescent lamp ballast'' is included in DOE's scope of coverage, although not all products within the scope of coverage may be subject to standards.

NYSERDA stated that including circline lamps within the scope of FLB standards could be an opportunity to improve product performance. (NYSERDA, No. 2 at pp. 1–2). In response, as previously discussed, a fluorescent lamp ballast is a device used to start and operate fluorescent lamps. However, EPCA's definition of ''fluorescent lamp'' at 42 U.S.C. 6291(30)(A) restricts the scope of that term, largely based upon lamp shape, base, and wattage. Consequently, the current energy conservation standards for fluorescent lamp ballasts are for ballasts used in connection with fluorescent lamps as defined in 10 CFR 430.2, a provision which reflects those statutory parameters in terms of scope. In the December 2020 Final Determination, DOE similarly relied on the definition of ''fluorescent lamp'' in 10 CFR 430.2, which provides the specific lamp lengths, bases, and wattages included by the term. 85 FR 81558, 81564 (Dec. 16, 2020). These do not include circline lamps, so ballasts servicing circline lamps would also be out of scope. Because DOE has found no substantial change in product offerings of covered fluorescent lamp ballasts since the December 2020 Final Determination, it is not proposing a change in the scope of analysis.

Furthermore, in response to the March 2023 RFI, NEMA recommended that DOE replace the reference to International Electrotechnical Commission (''IEC'') 62301:2011, *Household electrical appliances—Measurement of standby power,* with a reference to American National Standards Institute (''ANSI'') C82.11–2023, *Lamp Ballasts—High Frequency Fluorescent Lamp Ballasts,* because it is the most up-to-date FLB standard that now includes the standby power test methods. (NEMA, No. 3 at p. 2) NEMA also stated that other industry standards referenced by DOE's test procedures have been updated since the December 2020 Final Determination, and the commenter specifically recommended that referenced standards be updated to the following versions: ANSI C78.81–2016 (R2022); ANSI C78.375A–2014 (R2020); ANSI/NEMA C78.901–2016 (R2022); ANSI C82.1–2004 (R2008, R2015, S2020); ANSI C82.2–2002 (R2007, R2016, S2021); ANSI C82.3–2016 (R2022); ANSI C82.11–2023; ANSI

[5] The parenthetical reference provides a reference for information located in the docket. (Docket No. EERE–2023–BT–STD–0005, which is maintained at *www.regulations.gov).* The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

C82.13–2020; ANSI C82.77–10–2021. (NEMA, No. 3 at p. 2) In response, as specified in section III.A of this document, DOE notes that this proceeding is limited to consideration of the need for amended energy conservation standards for fluorescent lamp ballasts. However, DOE will examine the issue of updating references to industry testing standards found in DOE's test procedure as part of a future rulemaking considering amendments to DOE's test procedures for fluorescent lamp ballasts.

B. Product Classes

When evaluating and establishing or amending energy conservation standards, DOE will establish separate standards for a group of covered products (*i.e.,* establish a separate product class) if DOE determines that covered products within such group consume a different kind of energy, or have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a different standard. (42 U.S.C. 6295(q)(1)) In making a determination whether a performance-related feature justifies a different standard, DOE considers such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. (*Id.*)

For fluorescent lamp ballasts, the current energy conservation standards specified in 10 CFR 430.32(m) are based on the seven product classes listed in Table II.1. In the March 2023 RFI, DOE requested feedback on the current FLB product class structure. 88 FR 18086, 18089 (March 27, 2023). On this topic, NYSERDA stated that instant start (''IS'') and rapid start (''RS'') ballasts have significant efficiency differences even though they are classified together in one product class. (NYSERDA, No. 2 at p. 1) In response, DOE notes that in the December 2020 Final Determination, IS and RS ballasts were classified under the same product class even though there are efficiency differences between the two starting methods, because IS and RS ballasts are commonly used as substitutes for each other, indicating that consumers find no added benefit or distinct utility associated with IS ballasts relative to RS ballasts as would support separate product classes under 42 U.S.C. 6295(q)(1). 85 FR 81558, 81565 (Dec. 16, 2020) (*See* chapter 3 of the 2020 Final Determination Technical Support Document (''TSD'') for further details.) Since DOE has found no substantial change in product offerings, DOE has tentatively determined that this conclusion from the December 2020 Final Determination remains valid.

C. Technology Options and Screening Analysis

In the March 2023 RFI, DOE presented technology options for fluorescent lamp ballasts considered in the December 2020 Final Determination. 88 FR 18086, 18089 (March 27, 2023). In the December 2020 Final Determination, DOE identified technology options that have the potential to improve the efficiency of fluorescent lamp ballasts, and then DOE identified design options by screening out technology options that do not meet five screening criteria outlined in DOE's Process Rule. *See* 10 CFR part 430, subpart C, appendix A, sections 6(c)(3) and 7(b).[6] 85 FR 81558, 81561 (Dec. 16, 2020).

In this latest cycle of review, DOE has not found any new information or data to indicate that those same technology options and resulting design options are no longer valid means for manufacturers to improve the efficiency of fluorescent lamp ballasts. In addition, DOE has not identified any new technologies not already analyzed in the previous rulemaking that may improve the efficiency of fluorescent lamp ballasts. DOE did not receive any comments regarding technology options for fluorescent lamp ballasts in response to the March 2023 RFI. Accordingly, in this NOPD, DOE continues to consider only those design options identified in the December 2020 Final Determination.

[6] DOE notes that subsequent amendments to the Process Rule resulted in a renumbering of certain provisions, such as those related to screening criteria. Consequently, these provisions can now be found at sections 6(a)(3)(iii) and 7(b) of the current Process Rule. (*See* 89 FR 24340, 24360 (April 8, 2024)) However, the substance of these screening criteria did not change. The five screening criteria are: (1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in commercially viable, existing prototypes will not be considered further. (2) *Practicability to manufacture, install and service.* If it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further. (3) *Impacts on product utility or availability.* If a technology is determined to have significant adverse impact on the utility of the product/equipment to subgroups of consumers or result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the U.S. at the time, it will not be considered further. (4) *Impacts on health or safety.* If it is determined that a technology will have significant adverse impacts on health or safety, it will not be considered further. (5) *Unique-pathway proprietary technologies.* If a technology has proprietary protection and represents a unique pathway to achieving a given efficiency level, it will not be considered further, due to the potential for monopolistic concerns. (*See* 10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b)).

D. Efficiency Levels

As in any energy conservation standards rulemaking, DOE conducts an engineering analysis to establish the relationship between the efficiency and cost of a fluorescent lamp ballast. There are two elements to consider in the engineering analysis: (1) the selection of efficiency levels (''ELs'') to analyze (*i.e.,* the ''efficiency analysis'') and (2) the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency fluorescent lamp ballasts, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the baseline cost, as well as the incremental cost for the product at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the life-cycle cost (''LCC'') and payback period (''PBP'') analyses, as well as the national impact analysis (''NIA'')).

In the March 2023 RFI, DOE presented the maximum technologically feasible (''max-tech'') efficiency levels identified in the December 2020 Final Determination. 88 FR 18086, 18091–18092 (March 27, 2023). DOE did not receive any comments regarding these max-tech efficiency levels.

Because in the December 2020 Final Determination DOE did not amend standards for fluorescent lamp ballasts based on considerations of cost-effectiveness and significant energy savings (*see* 85 FR 81558, 81583 (Dec. 16, 2020)), an engineering analysis that shows higher efficiency levels than the max-tech levels analyzed in that rule may result in a different outcome. Therefore, in the present analysis, DOE focused on determining if there are higher max-tech levels than those identified in the December 2020 Final Determination.

In the December 2020 Final Determination, DOE identified efficiency levels including max-tech levels for each representative product class (*i.e.,* product classes directly analyzed) based on fluorescent lamp ballasts certified in DOE's Compliance Certification Database (''CCD'' [7]) at the time of the analysis. 85 FR 81558, 81567–81571 (Dec. 16, 2020). For the present analysis, DOE once again assessed the fluorescent lamp ballasts currently in the CCD. Based on a review

[7] U.S. Department of Energy's Compliance Certification Database (Available at: *www.regulations.doe.gov/certification-data/products.html#q=Product_Group_s%3A**).

of these products, DOE has tentatively determined that the max-tech levels identified in the December 2020 Final Determination remain valid.

Hence, DOE's review of the CCD found no changes in product offerings or efficiencies for fluorescent lamp ballasts that would affect the results of the engineering analysis in the December 2020 Final Determination. Therefore, DOE has tentatively determined that the engineering analysis in the December 2020 Final Determination remains valid.

E. Energy Use

Fluorescent lamp ballast energy use is directly dependent upon the power draw of the lamps operated by the ballast. In the December 2020 Final Determination, DOE included a mixture of wattage T8, T12, and tubular LED (''TLED'') lamp options. TLEDs draw less power than fluorescent lamps.[8] DOE inquired about the mixture of lamps in the March 2023 RFI. 88 FR 18086, 18093–18094 (March 27, 2023).

There are three types of TLEDs: Type A; Type B; and Type C and all are retrofit options for fluorescent systems. Type B and Type C TLEDs require that the electrician disconnect the power to the ballast and re-wire the fixture. In contrast, Type A TLEDs are a direct replacement for fluorescent tubes and operate on the existing ballast(s) in a fixture. Therefore, Type A TLEDs were included in the lamp mixture to determine the power draw of the fluorescent lamp ballast.

In response to the March 2023 RFI, NYSERDA stated that, particularly given the popularity of LEDs, it expects the proportion of fluorescent lamps operating on fluorescent lamp ballasts to decline over time. (NYSERDA, No. 2 at p. 2) NEMA stated that many States and localities have adopted building energy codes that indirectly mandate LED technology by setting requirements that could not be met with other technologies and that several States have enacted, or are in the process of enacting, bans on the sale of linear fluorescent lamps. (NEMA, No. 3 at pp. 1–2) NEMA stated ''ban of the sale of linear fluorescent lamp'' in their comment; however, the actual legislation focuses on the sale of mercury-containing lamps. Fluorescent lamp (compact and linear) technology involves low pressure lamps that use mercury vapor and phosphor coating on the lamp to generate visible light. States are enacting bans on the sales of mercury-containing products. Although fluorescent technology has reduced the mercury content in the lamps, there is still some mercury within the products. As a result, sales of certain types of fluorescent technology are affected by these laws enacted by States and other entities in the U.S.

As noted in the December 2020 Final Determination, fluorescent lamp ballasts can operate a variety of lamp types. The mixture of specific lamps operated by the fluorescent lamp ballast directly relates to the input power of the fluorescent lamp ballast. DOE included a mixture of full-wattage fluorescent lamps, reduced-wattage fluorescent lamps, and TLED lamps in the energy use analysis. 85 FR 81558, 81572 (Dec. 16, 2020). As shown in chapter 7 of the TSD for the December 2020 Final Determination, DOE modeled 26 percent of the lamps operated on IS/RS commercial ballasts as TLEDs. TLED lamps draw less power than fluorescent lamps. If the lamp power is lower, the fluorescent lamp ballast power will be lower, and if the operating hours are the same, the energy use will be lower. DOE also notes that at the writing of this notice, nine States have prohibited the sale of mercury-containing lamps, which include fluorescent lamps, and would also affect the proportion of fluorescent lamps that operate on fluorescent ballasts in a future analysis period. These bans would take effect before the start of the proposed analysis period of the determination. Table III.1 lists the effective dates of the laws that limit the sales of general service fluorescent lamps in specific States.

TABLE III.1—STATES WITH MERCURY-CONTAINING LAMP BANS

State	Effective date	Legislative No.
Vermont	January 1, 2024	VT 10 VSA 7152
California	January 1, 2025	CA AB 2208
Colorado	January 1, 2025	CO HB 1161
Maine	January 1, 2026	HP 1160
Oregon	January 1, 2025	HB 2531
Rhode Island	January 1, 2025	H5550
Hawaii	January 1, 2026	HB 192
Minnesota	January 1, 2026	HF 3911
Illinois	January 1, 2027	HB2363

NYSERDA also stated that in reviewing the weighting factors in the December 2020 Final Determination, the proportion and weighting factors for T12s appear to be unrealistically high given existing Federal and State standards limiting sales, which caused a steep decline in T12 sales and market share. (NYSERDA, No, 2 at p. 2)

DOE disagrees with NYSERDA that the T12 proportion in the December 2020 Final Determination was unrealistic. NEMA posts shipment data of TLEDs and general service fluorescent lamps. Per NEMA's data, T12 lamp shipments posted a 13.8 percent increase in the first quarter of 2022 compared to the first quarter of 2021, and T12 lamps represented 9.7 percent of fluorescent lamp shipments.[9] However, DOE does acknowledge that Federal efficiency standards will affect T12 lamps. Within the December 2020 Final Determination, DOE included in TSD chapter 7, *Energy Use Analysis,* the weighting factor for the different lamps operated on the ballasts. For IS/RS commercial ballasts, DOE projects a 0 percent T12 weighting factor in 2023, and for IS/RS residential ballasts, DOE projects a 2 percent T12 weighting factor in 2023. Within that analysis, DOE also noted that for some efficiency levels, a T12 lamp is no longer an option, and the market share was distributed around the remaining lamps

[8] A 2016 snapshot of TLEDs showed that TLEDs had efficacy values greater than fluorescent lamps. If the efficacy is greater, then a TLED can produce the same number of lumens for less input power. *See* U.S. Department of Energy CALiPER Snapshot Linear Lamps (TLEDs) (Available at: *stage.energy.gov/sites/default/files/2016/07/f33/snapshot2016_tleds.pdf*).

[9] *See www.nema.org/analytics/indices/view/t-led-lamp-shipments-index-increases-in-first-quarter-2022-compared-to-previous-year* (Last accessed April 10, 2025).

proportionally. For certain fluorescent lamp ballasts, T12 lamps represent 100 percent of the lamp mixture in chapter 7 of the December 2020 Final Determination TSD. These are specific ballasts that operate T12 lamps (*e.g.,* fixtures for billboard/sign lighting) and the lamps are 8 feet in length.

Energy use for fluorescent ballasts is determined by multiplying the power draw of the ballast by the operating hours. DOE stated previously in this document that the max-tech levels identified in the December 2020 Final Determination remain valid. Therefore, the only other possible change in the energy use analysis would be operating hours.

In the December 2020 Final Determination analysis, DOE based the operating hours on the 2015 Lighting Market Characterization (''LMC'') [10] 85 FR 81558, 81572 (Dec. 16, 2020). Since the December 2020 Final Determination analysis, DOE published the 2020 LMC.[11] The hours for different types of buildings vary slightly between the 2015 LMC and the 2020 LMC. Overall, the operating hours for fluorescent lamps in the 2020 LMC are slightly (<10 percent) greater than the 2015 LMC used by the 2020 Final Determination.

Because there are no changes in the engineering analysis from the 2020 Final Determination and the operating hours are roughly the same, DOE tentatively concludes that overall, the per unit energy use of fluorescent lamp ballasts would be roughly the same in this analysis as the 2020 Final Determination.

F. Shipments

In the December 2020 Final Determination, DOE projected a steady decline in the shipments of fluorescent lamp ballasts, consistent with market transition away from this type of lighting technology. 85 FR 81558, 81575–81576 (Dec. 16, 2020).

As discussed previously, in response to the March 2023 RFI, NEMA stated that one of its larger member lighting companies has announced it will stop selling fluorescent products and shift to a full LED portfolio by the end of 2023. (NEMA, No. 3 at pp. 1) NEMA's comment indirectly referenced the Acuity Brands, a large lighting manufacturer ($3.7 billion in sales in 2018), announcement that it will discontinue the manufacture of all fluorescent luminaires that remain in its portfolio by December 31, 2023.[12] In addition, DOE found that Lutron, a large manufacturer of ballasts and lighting controls, also announced that it will stop selling fluorescent lamp ballasts by December 31, 2023.[13]

In response to the March 2023 RFI, NYSERDA commented that it agrees with DOE's 2020 assumption that fluorescent lamp ballasts would be replaced rather than repaired, as the variety of replacement options has increased over time. NYSERDA further stated that one-for-one replacements of failed fluorescent lamp ballasts with new fluorescent lamp ballasts are anticipated to be less common, as Type B and Type C TLEDs have increasingly become the more economical option. NYSERDA anticipated that this trend will continue over time as LED replacements continue to grow in popularity. (NYSERDA, No. 2 at p. 2)

In the December 2020 Final Determination analysis, DOE determined that fluorescent lamp ballasts shipments are declining because of LED technology options. 85 FR 81558, 81576 (Dec. 16, 2020). Specifically, DOE modeled four shipments scenarios.

(1) *Scenario #1*—declining shipments that all terminate in 2024.

(2) *Scenario #2*—declining shipments that all terminate in 2040.

(3) *Scenario #3*—declining shipments that approach zero near the end of the analysis period (2052). This scenario was close to a year-over-year linear reduction of shipments by 20 percent.

(4) *Scenario #4*—declining shipments that terminate near the end of the analysis period. This scenario was based on a slower decline rate in the initial part of the analysis period and is similar to a projected decline in fluorescent lamps.

Id.

In December 2020 Final Determination, DOE utilized scenario #3 (declining shipments that approach zero near 2050) as the reference case. *Id.* The declines in shipments modeled in the December 2020 Final Determination stem from consumers switching away from fluorescent technology to LED technology.

In the February 2023 General Service Fluorescent Lamp (''GSFL'') Final Determination (''February 2023 GSFL Final Determination''), DOE modeled shipments of general service fluorescent lamps. Fluorescent lamp ballasts are directly related to general services fluorescent lamps, as the ballasts start and operate the lamps. The ballasts serve no function other than starting and operating general service fluorescent lamps [14] so, shipments of general service fluorescent lamps directly affect the shipments of fluorescent lamp ballasts. Fluorescent lamp ballasts typically operate more than one lamp. The February 2023 GSFL TSD used a weighted average of 2.88 lamps per instant-start ballast and 2.52 lamps per programmed-start ballast.

In the February 2023 GSFL Final Determination TSD, DOE's shipment model was based on different inputs. The demand module of the shipment model projects GSFL demand for replacements of failed or retired lamps that are met by new shipments. Shipments to new construction are also capable of being tracked and accounted for in the demand module. However, DOE stated in the February 2023 GSFL Final Determination that DOE assumed that for each shipment's projection year, demand for replacements would be the only source of demand for new lamp purchases. 88 FR 9118, 9130 (Feb. 13, 2023). DOE received a comment during the GSFL Final Determination rulemaking process from NEMA stating that the new construction is shifting to cost-competitive LED lighting. NEMA also shared data in response to DOE requesting data on shipments for new construction. NEMA shared their lamp index showing a reduction in general service fluorescent lamp shipments by 50 percent from 2015 to 2019. (Docket. EERE–2019–BT–STD–0030, Comment No. 6, pp. 2, 10–11). Based on NEMA's comments and data as well as other market trend data, DOE assumed no demand for general service fluorescent lamps for new construction.

In the February 2023 GSFL Final Determination, DOE assumed a fixed fraction of all tubular lamp stock in each year leave the market due to retrofits or renovations with integrated LED fixtures. This assumption has the effect of reducing the number of lamps that might retire, and, therefore, the size of the market in each year. 88 FR 9118, 9130 (Feb. 13, 2023). The reason the market reduces is that lamps leave service early before retirement (either via outright failure or normal replacement schedules) thus reducing the overall size of the GSFL market and depressing future shipments because

[10] *See www.energy.gov/eere/ssl/2015-us-lighting-market-characterization.*

[11] *See www.energy.gov/eere/ssl/articles/2020-us-lighting-market-characterization.*

[12] *See insights.acuitybrands.com/earthlight-blog/fluorescent-and-hid-discontinuation* (Last accessed Oct. 6, 2025).

[13] *See www.lutron.com/us/en/resources/upgrade-to-led-lighting* (Last accessed Oct. 6, 2025).

[14] FLBs can also start and operate Type A TLEDs, which are a type of LED retrofit lamp designed to operate on existing fluorescent lamp ballasts that are used during retrofits in which Type A TLEDs replace general service fluorescent lamps using the existing FLB.

fewer retired general service fluorescent lamps exist that could be replaced with similar general service fluorescent lamps.

Tubular lamp stock leaving the market for integrated LED fixtures reduces the potential market for fluorescent lamp ballasts. As previously stated, DOE assumes no shipments for new construction for general service fluorescent lamps, and, thus, fluorescent lamp ballasts do not service new construction. Therefore, FLB shipments service existing equipment where a fluorescent lamp ballast failed or needed repair. If existing tubular light fixtures are being retrofit or renovated with integrated LED fixtures, then there are fewer fixtures that might need to be serviced with a replacement fluorescent lamp ballast. Therefore, as GSFL lamp shipments are reduced because of fixtures being replaced by integrated LED fixtures, FLB shipments are also reduced.

The February 2023 GSFL Final Determination Technical Support Document (''TSD'') included a more detailed shipment analysis than that presented in the February 2023 GSFL Final Determination. In chapter 7 of the GSFL Final Determination TSD, DOE modeled shipments of GSFLs with a reduction by nearly 100 percent from 2020 to circa 2030.[15]

In the 2024 April General Service Lamp (''GSL'') Final Rule, DOE also discussed linear light sources (TLEDs and fixtures) and modeled shipments of GSFLs. In response to comments, DOE stated that there is uncertainty in the rate at which integrated fixtures will replace linear lamp fixtures, as well as uncertainty in the persistence of demand for linear lamps in applications that were not explicitly analyzed. 89 FR 28856, 28913 (April 19, 2024). In the 2024 April GSL Final Rule, DOE modeled a scenario where a smaller percentage of stock is removed each year and results in a more gradual reduction in the size of the linear lamp model. *Id.* The April 2024 GSL Final Rule TSD included a more detailed shipment analysis than presented in the April 2024 GSL Final Rule. In chapter 8 of the GSL Final Rule TSD, DOE modeled shipments of GSFLs being reduced from 10 million shipments circa 2030 to thousands of shipments in 2040.[16] As stated earlier, there is a direct relationship between GFSL shipments and FLB shipments. DOE assumed no future demand of general service fluorescent lamps to service new construction. Therefore, a decrease in GSFL shipments would directly affect the market for fluorescent lamp ballasts used to service existing fixtures since there are fewer existing installations.

The recent bans enacted by several States on lamps containing mercury, such as fluorescent lamps, may also decrease FLB shipments and further drive the shift to TLED lamps. Both Type B and Type C TLEDs require electrically bypassing the fluorescent lamp ballast to the lamp socket. Therefore, an increase in Type B and C TLED lamps will likely further reduce the overall amount of fluorescent lamp ballast shipments.

In summary, because fluorescent lamp ballast shipments continue to decline as consumers switch to LED technology, DOE has tentatively determined that the shipment scenarios modeled in the December 2020 Final Determination remain valid. However, in the December 2020 Final Determination, DOE utilized scenario #3 (declining shipments that approach zero near 2050) as the reference case. Based on new data related to shipments of GSFLs, which will directly affect the shipment of FLBs, DOE proposes scenario #2 (declining shipments that terminate in 2040) as the reference case.

In shipment scenario #2, FLB shipments reduce by 60 percent from 2020 to 2025; by 85 percent from 2020 to 2030; and by 97 percent from 2020 to 2035. DOE requests comments on its tentative conclusion that shipment scenario #2 represents the expected shipment trends of FLB technology.

IV. Proposed Determination

As required by EPCA, this NOPD analyzes whether amended energy conservation standards for fluorescent lamp ballasts would result in significant conservation of energy, be technologically feasible, and be cost-effective. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) The criteria considered under 42 U.S.C. 6295(m)(1)(A) and the additional analysis relating to economic justification are discussed in the sections that follow. DOE first discusses the technological feasibility of amended standards and then addresses the cost-effectiveness and energy savings associated with potential amended standards.

A. Technological Feasibility

EPCA mandates that DOE consider whether amended energy conservation standards for fluorescent lamp ballasts would be technologically feasible. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(B)) In the December 2020 Final Determination, DOE concluded that there are technology options that would improve the efficiency of fluorescent lamp ballasts. Further, DOE concluded that these technology options are being used in commercially available fluorescent lamp ballasts and, therefore, are technologically feasible. 88 FR 81558, 81583 (Dec. 16, 2020). Because there have been no substantive changes in the FLB market since the December 2020 Final Determination analysis, DOE has tentatively determined that its conclusions regarding technological feasibility from that analysis remain valid. Hence, DOE has tentatively determined that amended energy conservation standards for fluorescent lamp ballasts would be technologically feasible.

B. Cost Effectiveness

EPCA requires DOE to consider whether energy conservation standards for fluorescent lamp ballasts would be cost-effective through an evaluation of the savings in operating costs throughout the estimated average life of the covered fluorescent lamp ballasts compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered fluorescent lamp ballasts which are likely to result from an amended standard. (42 U.S.C. 6295(m)(1)(A), 42 U.S.C. 6295(n)(2)(C), and 42 U.S.C. 6295(o)(2)(B)(i)(II)) In the December 2020 Final Determination, DOE conducted an LCC analysis to estimate the net costs/benefits to users from increased efficiency of the considered FLBs. 85 FR 81558, 81583 (Dec. 16, 2020).

In the December 2020 Final Determination, DOE found that the average consumer purchasing a representative fluorescent lamp ballast would experience either no savings or the savings of $1 in LCC at each evaluated standards case as compared to the no-new-standards case. 85 FR 81558, 81580 (Dec. 16, 2020). The simple PBP for the average FLB customer at most efficiency levels was near the rated life of fluorescent lamp ballasts. *Id.* These results indicate that based on the previous energy use of fluorescent lamp ballasts, the costs were only recovered near the end of the fluorescent lamp ballast life. Because there have been no substantive changes in the FLB market that would affect the conclusions of the December 2020 Final Determination analysis, DOE has tentatively determined that these conclusions remain valid.

In the December 2020 Final Determination, DOE then aggregated the

[15] *See https://www.regulations.gov/docket/EERE-2019-BT-STD-0030/document.*

[16] *See https://www.regulations.gov/docket/EERE-2022-BT-STD-0022/document.*

results of the LCC analysis to estimate the net present value (''NPV'') of the total costs and benefits experienced by consumers. The inputs used to determine NPV included (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs) and (3) discount factor to calculate the present value of costs and savings. DOE found that the NPV at the considered efficiency levels were negative for all product classes at 3-percent and 7-percent discount rates, and based on this negative NPV, DOE determined that none of the efficiency levels analyzed were cost effective. 85 FR 81558, 81581 (Dec. 16, 2020). Because there have been no substantive changes in the FLB market since the December 2020 Final Determination that would impact the inputs to the NPV analysis, DOE has tentatively determined that NPV results would still be negative. As a result, DOE has tentatively determined that its conclusion that more-stringent amended energy conservation standards for fluorescent lamp ballasts are not cost effective remains valid.

C. Significant Conservation of Energy

EPCA also mandates that DOE consider whether amended energy conservation standards for fluorescent lamp ballasts would result in significant conservation of energy. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(A))

However, as discussed in the previous section, DOE has tentatively determined that amended standards for fluorescent lamp ballasts would not be cost-effective. Therefore, DOE has tentatively concluded that quantification of energy savings from potential amended standards is not necessary in the case of this rulemaking.

D. Summary

Based on the initial determination that amended standards would not be cost-effective, DOE has tentatively determined that energy conservation standards for fluorescent lamp ballasts do not need to be amended. DOE will consider all comments received on this proposed determination in deciding how to move forward with this proceeding.

V. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

This proposed regulatory action, if adopted, would not be a significant regulatory action under section 3(f) of Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this proposed regulatory action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'').

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this proposed determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. Because DOE is proposing not to amend standards for fluorescent lamp ballasts, if adopted, the determination would not amend any energy conservation standards. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, would not have a ''significant economic impact on a substantial number of small entities,'' and, therefore, the preparation of an IRFA is not warranted. Accordingly, DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

DOE is not amending its existing information collections through this proposed rule. Under existing provisions, manufacturers of covered products/equipment must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for such products/equipment, including any amendments adopted for those test procedures, on the date that compliance is required. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment (*see generally* 10 CFR part 429). The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

Specifically, this proposed determination, through which DOE has tentatively decided that amended energy conservation standards for fluorescent lamp ballasts are unnecessary under the applicable statutory criteria, would impose no new informational or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), DOE has analyzed this action in accordance with NEPA, as amended, DOE's NEPA implementing regulations (set forth in 10 CFR part 1021), and DOE's NEPA implementing procedures (published outside the Code of Federal Regulations on June 30, 2025 (Available at: *www.energy.gov/nepa/articles/doe-nepa-implementing-procedures-june-2025*)). On July 3, 2025, DOE published an interim final rule in the **Federal Register** which revised 10 CFR part 1021 to contain only administrative and routine actions excepted from NEPA review in appendix A, its existing categorical exclusions in appendix B, related requirements, and a provision for emergency circumstances. 90 FR 29676. DOE notes that appendix A in 10 CFR part 1021 (formerly categorical

exclusions) are now administrative and routine actions that do not require NEPA review.

In this document, DOE considers the need for amended energy conservation standards for fluorescent lamp ballasts; after careful review, the DOE has tentatively determined that amended standards are not necessary under the applicable statutory criteria. DOE analyzed the proposed determination in accordance with NEPA and tentatively determined that this action is administrative and routine because it is an interpretation or ruling in regard to an existing regulation and is therefore excepted from NEPA. 10 CFR part 1021, subpart D, paragraph A4. DOE has tentatively determined that as an administrative and routine action, this rulemaking is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and no further environmental review is needed. DOE will complete its NEPA review before issuing the final action. For more information, please see appendix A of 10 CFR part 1021 (''A4, Interpretations and Rulings for Existing Regulations'') and appendix A of DOE's NEPA implementing procedures, A4, Interpretations and Rulings for Existing Regulations (June 30, 2025).

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. In this proposed determination, DOE tentatively concludes that it is not necessary to amend the existing energy conservation standards for fluorescent lamp ballasts. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the fluorescent lamp ballasts that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met, or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf*.

DOE examined this proposed determination according to UMRA and its statement of policy and has tentatively determined that the proposed determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, no further assessment or analysis is required under UMRA.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. When developing a Family Policymaking Assessment, agencies must assess whether: (1) the action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment; (2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children; (3) the action helps the family perform its functions, or substitutes governmental activity for the function; (4) the action increases or decreases disposable income or poverty of families and children; (5) the proposed benefits of the action justify the financial impact on the family; (6) the action may be carried out by State or local government or by the family; and whether (7) the action establishes an implicit or explicit policy concerning the relationship

between the behavior and personal responsibility of youth, and the norms of society.

This proposed determination, which tentatively concludes that amended standards for fluorescent lamp ballasts are not necessary, would not have any financial impact on families nor any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment for this document, as none of the above factors are implicated.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this proposed determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf*.

DOE has reviewed this proposed determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the regulation be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this proposed determination, which proposes to not amend the existing energy conservation standards for fluorescent lamp ballasts, is not a significant energy action for the reasons that follow. It is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects for this proposed determination.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared a Peer Review report pertaining to the energy conservation standards rulemaking analyses.[17] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[18]

M. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this proposed determination and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy,'' 90 FR 8353 (Jan. 29, 2025); E.O. 14192, ''Unleashing Prosperity Through Deregulation,'' 90 FR 9065 (Feb. 6, 2025); and Presidential Memorandum, ''Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis,'' 90 FR 8245 (Jan. 28, 2025). This proposed determination has also been determined to be an ''E.O. 14192 deregulatory action'' because it provides regulatory certainty to manufacturers of fluorescent lamp ballasts that regulatory burdens will not be increasing, thereby allowing them to allocate resources to other productive activities.

VI. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=3*. Participants are responsible for ensuring their systems are compatible with the webinar software.

[17] ''Energy Conservation Standards Rulemaking Peer Review Report'' (2007) (Available at: *www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0*) (Last accessed Oct. 6, 2023).

[18] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards* (Last accessed Oct. 9, 2025).

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to make a prepared general statement to *ApplianceStandardsQuestions@ee.doe.gov*. Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this proposed determination and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached to enable DOE staff to make follow-up contact, if needed.

DOE requests persons seeking to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed determination, until the end of the comment period.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics to be addressed in this rulemaking and summaries of comments received before the webinar, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed determination. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed determination. The official conducting the webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this NOPD and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed determination before or after the webinar, but no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand deliver/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No telefacsimiles (''faxes'') will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and

that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email to *FLB2023STD0005@ee.doe.gov,* postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning its tentative conclusion that because no substantive changes have occurred in the market and technology of fluorescent lamp ballasts, the conclusions of the December 2020 Final Determination remain valid that amending FLB standards is not cost-effective.

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of proposed determination, request for comment, and announcement of webinar.

Signing Authority

This document of the Department of Energy was signed on March 11, 2026, by Audrey Robertson, Assistant Secretary (EERE) for Critical Minerals and Energy Innovation, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 27, 2026.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026–06177 Filed 3–30–26; 8:45 am]

BILLING CODE 6450–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–6955]

Performance-Based Investment Advisory Fees

AGENCY: Securities and Exchange Commission.

ACTION: Notice of intent to issue order.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') intends to issue an order that would adjust for inflation dollar amount thresholds in the rule under the Investment Advisers Act of 1940 that permits investment advisers to charge performance-based fees to ''qualified clients.'' Under that rule, an investment adviser may charge performance-based fees if a ''qualified client'' has a certain minimum net worth or minimum dollar amount of assets under the management of the adviser. The Commission's order would increase, to reflect inflation, the minimum net worth that a ''qualified client'' must have under the rule. The order would also increase, to reflect inflation, the minimum dollar amount of assets under management.

DATES: Hearing requests should be received by the Commission's Office of the Secretary by 5:30 p.m. on April 27, 2026.

ADDRESSES: Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary. Any such communication should be emailed to the Commission's Secretary at *Secretarys-Office@sec.gov.* Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

FOR FURTHER INFORMATION CONTACT: Daniel Levine, Senior Counsel, at (202) 551–3937, Investment Adviser Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission intends to issue an order under the Investment Advisers Act of 1940 (''Advisers Act'' or ''Act'').[1]

I. Background

Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into, extending, renewing, or performing any investment advisory contract that provides for compensation to the adviser based on a share of capital gains on, or capital appreciation of, the funds of a client.[2] In 1970, Congress provided an exception from the prohibition for advisory contracts relating to the investment of assets in excess of $1,000,000,[3] if an appropriate ''fulcrum fee'' is used.[4] Congress subsequently authorized the Commission to exempt, by rule or order, any advisory contract from the performance fee prohibition if the contract is with any person that the Commission determines does not need the protections of that prohibition.[5]

[1] 15 U.S.C. 80b. Unless otherwise noted, all references to statutory sections are to the Advisers Act, and all references to rules under the Advisers Act, including rule 205–3, are to Title 17, Part 275 of the Code of Federal Regulations [17 CFR 275].

[2] 15 U.S.C. 80b–5(a)(1).

[3] 15 U.S.C. 80b–5(b)(2). Trusts, governmental plans, collective trust funds, and separate accounts referred to in section 3(c)(11) of the Investment Company Act of 1940 (''Investment Company Act'') [15 U.S.C. 80a–3(c)(11)] are not eligible for this exception from the performance fee prohibition under section 205(b)(2)(B) of the Advisers Act.

[4] 15 U.S.C. 80b–5(b). A fulcrum fee generally involves averaging the adviser's fee over a specified period and increasing or decreasing the fee proportionately with the investment performance of the company or fund in relation to the investment record of an appropriate index of securities prices. *See* rule 205–2 under the Advisers Act; Adoption of Rule 205–2 under the Investment Advisers Act of 1940, As Amended, Definition of ''Specified Period'' Over Which Asset Value of Company or Fund Under Management is Averaged, Advisers Act Release No. 347 (Nov. 10, 1972) [37 FR 24895 (Nov. 23, 1972)]. In 1980, Congress added another exception to the prohibition against charging performance fees, for contracts involving business development companies under certain conditions. *See* section 205(b)(3) of the Advisers Act.

[5] Section 205(e) of the Advisers Act. Section 205(e) of the Advisers Act authorizes the Commission to exempt conditionally or unconditionally from the performance fee prohibition advisory contracts with persons that the Commission determines do not need its protections. Section 205(e) provides that the Commission may determine that persons do not need the protections of section 205(a)(1) on the basis of such factors as ''financial sophistication, net worth, knowledge of

The Commission adopted rule 205–3 in 1985 to exempt an investment adviser from the prohibition against charging a client performance fees in certain circumstances.[6] The rule, when adopted, allowed an adviser to charge performance fees if the client had at least $500,000 under management with the adviser immediately after entering into the advisory contract (''assets-under-management test'') or if the adviser reasonably believed, immediately prior to entering into the advisory contract, that the client had a net worth of more than $1,000,000 at the time the contract was entered into (''net worth test''). The Commission stated that these standards would limit the availability of the exemption to clients who are financially experienced and able to bear the risks of performance fee arrangements.[7] In 1998, the Commission amended rule 205–3 to, among other things, change the dollar amounts of the assets-under-management test and net worth test to adjust for the effects of inflation since 1985.[8] The Commission revised the former from $500,000 to $750,000, and the latter from $1,000,000 to $1,500,000.[9]

The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') [10] amended section 205(e) of the Advisers Act to provide that, by July 21, 2011 and every five years thereafter, the Commission shall, by order, adjust for the effects of inflation the dollar amount thresholds included in rules issued under section 205(e), rounded to the nearest multiple of $100,000.[11] In May 2011, the Commission published a release (the ''May 2011 Release'') that included a notice of intent to issue an order revising the dollar amount thresholds of the assets-under-management test (from $750,000 to $1,000,000) and the net worth test (from $1,500,000 to $2,000,000).[12]

The May 2011 Release also proposed amendments to rule 205–3 providing, among other things, that the Commission would issue an order every five years in the future adjusting the rule's dollar amount thresholds for inflation.[13] On February 15, 2012, the Commission adopted these proposed amendments, which amended rule 205–3 to carry out the inflation adjustment of the rule's dollar amount thresholds.[14] Rule 205–3, as amended in 2012, stated that the Commission would issue an order on or about May 1, 2016, and approximately every five years thereafter, adjusting for inflation the dollar amount thresholds of the rule's assets-under-management and net worth tests,[15] and specified the price index on which future inflation adjustments would be based—the Personal Consumption Expenditures Chain-Type Price Index (''PCE Index''), which is published by the United States Department of Commerce [16] and is used in other provisions of the Federal securities laws.[17]

On June 14, 2016 and June 17, 2021, the Commission issued orders adjusting for inflation, as appropriate, the dollar amount thresholds of the assets-under-management test and the net worth test.[18] In November 2021, the Commission amended rule 205–3 to replace the specific dollar amount thresholds in the rule's net worth and assets-under-management tests with references to the specific dollar amount thresholds adjusted for inflation in the most recent order issued by the Commission.[19] The 2021 Amendments also updated the specific reference point in paragraph (e) of rule 205–3 from May 1, 2016 to ''on or about May 1, 2026, and approximately every five years thereafter'' to establish the next expected date for issuance of a Commission order.

As of August 16, 2021, the dollar amount of the assets-under-management test is $1,100,000, and the dollar amount of the net worth test is $2,200,000.[20]

Hearing or Notification of Hearing: An order adjusting the dollar amount tests specified in the definition of ''qualified client'' will be issued unless the Commission orders a hearing.

II. Discussion

A. Order Adjusting Dollar Amount Tests

Pursuant to section 418 of the Dodd-Frank Act and rule 205–3(e), we are

and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, and such other factors as the Commission determines are consistent with [section 205].''

[6] Exemption To Allow Registered Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Advisers Act Release No. 996 (Nov. 14, 1985) [50 FR 48556 (Nov. 26, 1985)] (''1985 Adopting Release''). The exemption applies to the entrance into, performance, renewal, and extension of advisory contracts. *See* rule 205–3(a).

[7] *See* 1985 Adopting Release, *supra* footnote 6, at Sections I.C and II.B. The rule also imposed other conditions, including specific disclosure requirements and restrictions on calculation of performance fees. *See id.* at Sections II.C–E.

[8] *See* Exemption To Allow Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Advisers Act Release No. 1731 (July 15, 1998) [63 FR 39022 (July 21, 1998)].

[9] *See id.* at Section II.B.1.

[10] Public Law 111–203, 124 Stat. 1376 (2010).

[11] *See* section 418 of the Dodd-Frank Act (requiring the Commission to issue an order every five years revising dollar amount tests in a rule that exempts a person or transaction from section 205(a)(1) of the Advisers Act if the dollar amount test was a factor in the Commission's determination that the persons do not need the protections of that section).

[12] *See* Investment Adviser Performance Compensation, Advisers Act Release No. 3198 (May 10, 2011) [76 FR 27959 (May 13, 2011)]. The Commission issued an order to revise the dollar amount thresholds of the assets-under-management and net worth tests, as described above, on July 12, 2011. *See* Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 under the Investment Advisers Act of 1940, Advisers Act Release No. 3236 (July 12, 2011) [76 FR 41838 (July 15, 2011)] (''2011 Order''). The 2011 Order was effective as of September 19, 2011. *Id.* The 2011 Order applied to contractual relationships entered into on or after the effective date and did not apply retroactively to contractual relationships previously in existence.

[13] *See* May 2011 Release, *supra* footnote 12.

[14] *See* Investment Adviser Performance Compensation, Advisers Act Release No. 3372 (Feb. 15, 2012) [77 FR 10358 (Feb. 22, 2012)] (amending rule 205–3 by, in part, revising the dollar amount thresholds to codify the 2011 Order); *see also* rule 205–3(d)(1)(i) through (ii).

[15] *See* rule 205–3(e).

[16] *See* rule 205–3(e)(1). The PCE Index is an indicator of inflation in the personal sector of the U.S. economy. *See* Performance-Based Investment Advisory Fees, Advisers Act Release No. 4388 (May 18, 2016) [81 FR 32686 (May 24, 2016)], at text accompanying n.20.

[17] *See e.g.,* Qualifying Venture Capital Funds Inflation Adjustment, Investment Company Act Release No. 35305 (Aug. 21, 2024) [89 FR 70479 (Aug. 30, 2024)] (adjusting for inflation the dollar threshold used in defining a ''qualifying venture capital fund'' under the Investment Company Act); Definitions of Terms and Exemptions Relating to the ''Broker'' Exceptions for Banks, Securities Exchange Act Release No. 56501 (Sept. 24, 2007) [72 FR 56514 (Oct. 3, 2007)] (adopting periodic inflation adjustments to the fixed-dollar thresholds for both ''institutional customers'' and ''high net worth customers'' under Rule 701 of Regulation R); Amendments to Form ADV, Advisers Act Release No. 3060 (July 28, 2010) [75 FR 49234 (Aug. 12, 2010)] (increasing for inflation the threshold amount for prepayment of advisory fees that triggers an adviser's duty to provide clients with an audited balance sheet and the dollar threshold triggering the exception to the delivery of brochures to advisory clients receiving only impersonal advice). The Dodd-Frank Act also requires the use of the PCE Index to calculate inflation adjustments for the cash limit protection of each investor under the Securities Investor Protection Act of 1970. *See* section 929H(a) of the Dodd-Frank Act; *see also* Securities Investor Protection Corporation, Securities Investor Protection Act of 1970 Release No. 183 (Jan. 27, 2021) [86 FR 7900 (Feb. 2, 2021)].

[18] Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 under the Investment Advisers Act of 1940, Advisers Act Release No. 4421 (June 14, 2016) [81 FR 39985 (June 20, 2016)] (''2016 Order''). The 2016 Order was effective as of August 15, 2016. Order Approving Adjustment for Inflation of the Dollar Amount Tests in Rule 205–3 under the Investment Advisers Act of 1940, Advisers Act Release No. 5756 (June 17, 2021) [86 FR 32993 (June 23, 2021)] (''2021 Order''). The 2021 Order was effective as of August 16, 2021.

[19] *See* Performance-Based Investment Advisory Fees, Advisers Act Release No. 5904 (Nov. 4, 2021) [86 FR 62473 (Nov. 10, 2021)] (''2021 Amendments''). The 2021 Amendments define ''most recent order'' as the most recently issued Commission order in accordance with paragraph (e) of rule 205–3 and as published in the **Federal Register**.

[20] *See* 2021 Order.

providing notice [21] that the Commission intends to issue an order making the required inflation adjustment to the assets-under-management test and the net worth test in the definition of ''qualified client'' in rule 205–3. As discussed above, rule 205–3(e) requires that we adjust the dollar amount thresholds of the rule by order on or about May 1, 2026, and approximately every five years thereafter. We intend to issue an order that would increase the dollar amount of the assets-under-management test from $1,100,000 to $1,400,000 and would increase the dollar amount of the net worth test from $2,200,000 to $2,700,000. As required under rule 205–3, both dollar amounts would take into account the effects of inflation by reference to historic and current levels of the PCE Index. Because the amount of the Commission's inflation adjustment calculations are larger than the rounding amount specified under rule 205–3, the dollar amounts of both tests would be adjusted as a result of the Commission's inflation adjustment calculation effected pursuant to the rule.[22]

B. Effective Date

We anticipate that, if we issue the order described above, the effective date will be 60 days following the order date.[23] To the extent that contractual relationships are entered into prior to the order's effective date, the dollar amount test adjustments in the order would not generally apply retroactively to such contractual relationships, subject to the transition rules incorporated in rule 205–3.[24]

By the Commission.

Dated: March 27, 2026.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–06229 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

OFFICE OF THE NATIONAL CYBER DIRECTOR

32 CFR Chapter XXII

[Docket ID Number: ONCD–2025–0030]

RIN 0301–AA02

Implementing the Freedom of Information Act and Privacy Act

AGENCY: Office of the National Cyber Director, Executive Office of the President.

ACTION: Notice of proposed rulemaking and request for public comment.

SUMMARY: The Office of the National Cyber Director (ONCD) is issuing its first Freedom of Information Act (FOIA) and Privacy Act regulations. These regulations reflect ONCD's process for responding to requests for information and affirm its commitment to provide the fullest possible disclosure of records to the public.

DATES: Comments must be received by May 15, 2026.

ADDRESSES: Comments must be submitted through the *Federal eRulemaking Portal* at *http://www.regulations.gov* following the instructions it provides. All comments will be posted without change including any provided personal information.

FOR FURTHER INFORMATION CONTACT: Carina Bergal, Deputy General Counsel, ONCD, 202–456–8708, *foia@oncd.eop.gov* with the subject line: ''FOIA/PRIVACY ACT PROPOSED RULEMAKING.''

SUPPLEMENTARY INFORMATION:

A. *The FOIA.* The FOIA, 5 U.S.C. 552, provides a right of access to certain records that Federal agencies maintain and control. The FOIA directs each Federal agency to publish regulations that describe how the agency will process FOIA requests it receives from members of the public. The FOIA Improvement Act of 2016, Public Law 114–185, requires each agency to promulgate regulations, pursuant to notice and receipt of public comment, specifying its FOIA policies, practices, and procedures.

B. The Privacy Act. The Privacy Act, 5 U.S.C. 552a, governs each federal agency's collection, maintenance, use, and dissemination of any information about individuals that it maintains in a system of records. The Privacy Act directs each Federal agency to publish regulations that describe the agency's procedures for carrying out the provisions of the Privacy Act.

Statutory and Executive Order Reviews

Regulatory Impact Analysis

This proposed regulatory action is not a significant regulatory action subject to review by the Office of Management and Budget under section 3(f) of Executive Order 12866. Since this regulatory action is not a significant regulatory action under section 3(f) of Executive Order 12866, it is not considered an Executive Order 14192 regulatory action.

Paperwork Reduction Act

ONCD has determined that the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* does not apply because these regulations do not contain any information collection requirements subject to ONCD's approval.

Executive Order 12988—Civil Justice Reform

These regulations meet the applicable standards set forth in Executive Order 12988, Civil Justice Reform.

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[21] *See* section 211(c) of the Advisers Act (requiring the Commission to provide appropriate notice of and opportunity for hearing for orders issued under the Advisers Act).

[22] Specifically, rule 205–3(e) provides that the adjusted dollar amounts shall be computed by: (1) dividing the year-end value of the PCE Index (or any successor index thereto) for the calendar year preceding the calendar year in which the order is being issued (in this case, 2025), by the year-end value of the PCE Index (or successor) for the calendar year 1997 (such quotient, the ''Adjustment Percentage''); (2) for the assets-under-management test, multiplying $750,000 by the Adjustment Percentage and rounding the product to the nearest multiple of $100,000; and (3) for the net worth test, multiplying $1,500,000 by the Adjustment Percentage and rounding the product to the nearest multiple of $100,000. As of March 26, 2026, the end-of-year 2025 PCE Index was 128.214, and the end-of-year 1997 PCE Index was 70.710. Assets-under-management test calculation to adjust for the effects of inflation: (128.214/70.710) × $750,000 = $1,359,927.87; $1,359,927.87 rounded to the nearest multiple of $100,000 = $1,400,000. Net worth test calculation to adjust for the effects of inflation: (128.214/70.710) × $1,500,000 = $2,719,855.75; $2,719,855.75 rounded to the nearest multiple of $100,000 = $2,700,000. The values of the PCE Index are available from the Bureau of Economic Analysis, a bureau of the United States Department of Commerce. *See http://www.bea.gov; see also* Bureau of Economic Analysis, Table 2.3.4., ''Price Indexes for Personal Consumption Expenditures by Major Type of Product,'' *available at https://apps.bea.gov/iTable/?reqid=19&step=3&isuri=1&select_all_years=0&nipa_table_list=64&series=a&first_year=1997&last_year=2020&scale=-99&categories=survey&thetable#eyJhcHBpZCI6MTksInN0ZXBzIjpbMSwyLDMsM10sImRhdGEiOltbInNlbGVjdF9hbGxfeWVhcnMiLCIwIl0sWyJuaXBhX3RhYmxlX2xpc3QiLCI2NCJdLFsic2VyaWVzIiwiUSJdLFsiZmlyc3RfeWVhciIsIjE5OTUiXSxbImxhc3RfeWear2020Iiwic2NhbGUiLCItOTkiXSxbImNhdGVnb3JpZXMiLCJzdXJ2ZXkiXSxbInRoZXRhYmxlIiwiZXY2F0ZWdvcmllcyJdXX0=*](https://apps.bea.gov/iTable/?reqid=19&step=3&isuri=1&select_all_years=0&nipa_table_list=64&series=a&first_year=1997&last_year=2020&scale=-99&categories=survey&thetable#eyJhcHBpZCI6MTksInN0ZXBzIjpbMSwyLDMsM10sImRhdGEiOltbInNlbGVjdF9hbGxfeWVhcnMiLCIwIl0sWyJuaXBhX3RhYmxlX2xpc3QiLCI2NCJdLFsic2VyaWVzIiwiUSJdLFsiZmlyc3RfeWVhciIsIjE5OTUiXSxbImxhc3RfeWear2020Iiwic2NhbGUiLCItOTkiXSxbImNhdGVnb3JpZXMiLCJzdXJ2ZXkiXSxbInRoZXRhYmxlIiwiZXY2F0ZWdvcmllcyJdXX0=)

IsIlN1cnZleSJdLFsidGhldGFibGUiLCIiXV19= (last visited March 26, 2026).

[23] When the Commission issued the 2011, 2016, and 2021 Orders adjusting the dollar amount tests of rule 205–3 as described above, the effective dates of the Orders were approximately 60 days following their issuance. *See* 2011 Order, *supra* footnote 12, at section III; 2016 Order, *supra* footnote 18, at section III; 2021 Order, *supra* footnote 18, at section III.

[24] *See* rule 205–3(c)(1) (''If a registered investment adviser entered into a contract and satisfied the conditions of this section that were in effect when the contract was entered into, the adviser will be considered to satisfy the conditions of this section; Provided, however, that if a natural person or company who was not a party to the contract becomes a party (including an equity owner of a private investment company advised by the adviser), the conditions of this section in effect at that time will apply with regard to that person or company.''); *see also* May 2011 Release, *supra* footnote 12, at section II.B.3.

Executive Order 13132—Federalism

These regulations will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, ONCD has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulatory Flexibility Act

ONCD, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed these regulations and certifies that it will not have a significant economic impact on a substantial number of small entities because they pertain to administrative matters affecting the agency.

Unfunded Mandates Reform Act of 1995

These regulations 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 one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501, *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

These regulations are not major rules as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. They will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

National Environmental Policy Act of 1969

ONCD has reviewed these regulations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347, and has determined that this action will not have a significant effect on the human environment.

List of Subjects

32 CFR Part 2200

Administrative practice and procedure, Courts, Freedom of information, Records.

32 CFR Part 2201

Administrative practice and procedure, Courts, Privacy, Records.

For the reasons discussed in the preamble, the Office of the National Cyber Director proposes to add chapter XXII, consisting of parts 2200 through 2299, to subtitle B of title 32 to read as follows:

Title 32—National Defense

Subtitle B—Other Regulations Relating to National Defense

Chapter XXII—Office of the National Cyber Director

PART 2200—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

PART 2201—REGULATIONS IMPLEMENTING THE PRIVACY ACT

PARTS 2202–2299 [RESERVED]

PART 2200—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Sec.

2200.1 Purpose and scope.
2200.2 Delegation of authority and responsibilities.
2200.3 General policy and definitions.
2200.4 Procedure for requesting records.
2200.5 Responses to requests.
2200.6 Timing of responses to requests.
2200.7 Confidential commercial information.
2200.8 Appeal of denials.
2200.9 Fees.
2200.10 Waiver of fees.
2200.11 Maintenance of statistics.
2200.12 Disclaimer.

Authority: 5 U.S.C. 552; E.O. 13392, 70 FR 75373, 3 CFR, 2005 Comp., p. 216.

§ 2200.1 Purpose and scope.

The regulations in this part prescribe procedures by which individuals may obtain access to the Office of the National Cyber Director (ONCD) agency records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, as well as the procedures ONCD will follow in response to requests for records under the FOIA. This part should be read together with the FOIA and the Office of Management and Budget's (OMB's) ''Uniform Freedom of Information Fee Schedule and Guidelines,'' which provides information about access to records. All requests for access to information contained within a system of records pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, shall be processed in accordance with this part.

§ 2200.2 Delegation of authority and responsibilities.

(a) The Director of ONCD designates the ONCD General Counsel as the Chief FOIA Officer, and hereby delegates to the Chief FOIA Officer the authority to act upon all requests for agency records and to re-delegate such authority at his or her discretion.

(b) The Chief FOIA Officer shall designate a FOIA Public Liaison, who shall serve as the supervisory official to whom a FOIA requester can raise concerns about the service the FOIA requestor has received following an initial response. The FOIA Public Liaison will be listed on the ONCD website (*https://www.whitehouse.gov/oncd/information-resources/*) and may re-delegate the FOIA Public Liaison's authority at his or her discretion.

(c) The Director establishes a FOIA Requester Service Center that shall be staffed by the FOIA Public Liaison. The contact information for the FOIA Requester Service Center is: Office of the National Cyber Director, New Executive Office Building, 725 17th Street NW, Washington, DC 20504; Telephone: 202–395–1925; Email: *foia@ncd.eop.gov.* Updates to this contact information will be made on the ONCD website.

§ 2200.3 General policy and definitions.

(a) *Non-exempt records available to public.* Except for records exempt from disclosure by 5 U.S.C. 552(b) or published in the **Federal Register** under 5 U.S.C. 552(a)(1), ONCD's agency records subject to the FOIA are available to any requester who requests them in accordance with this part.

(b) *Record availability on the ONCD website.* ONCD shall make records available on its website in accordance with 5 U.S.C. 552(a)(2), as amended, and other documents that, because of the nature of their subject matter, are likely to be the subject of FOIA requests. To save both time and money, ONCD strongly urges requesters to review documents available on the ONCD website before submitting a request.

(c) *Definitions.* For purposes of this part:

(1) All of the terms defined in the Freedom of Information Act apply, unless otherwise defined in this part.

(2) The term *agency record* means a record that is:

(i) Either created or obtained by ONCD; and

(ii) Under ONCD control at the time the FOIA request is received.

(3) The term *commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her

commercial, trade, or profit interests, which can include furthering those interests through litigation. ONCD shall determine, whenever reasonably possible, the use to which a requester will put the requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because ONCD has reasonable cause to doubt a requester's stated use, ONCD shall provide the requester a reasonable opportunity to submit further clarification.

(4) The terms *disclose and disclosure* refer to making records available, upon request, for examination and copying, or furnishing a copy of records.

(5) The term *direct cost* means those expenditures ONCD actually incurred in searching for and duplicating (and, in the case of commercial use requests, reviewing) records in response to a FOIA request. Direct costs include the salary of the personnel performing the work (*i.e.,* the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. Direct costs do not include overhead expenses, such as the cost of space, heating, or lighting of the facility in which the records are stored.

(6) The term *duplication* means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or electronic records (*e.g.,* magnetic tape or disk), among others.

(7) The term *educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education that operates a program of scholarly research. To fall within this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but rather are sought to further scholarly research.

(8) The term *fee waiver* means the waiver or reduction of processing fees if a requester can demonstrate that certain statutory standards are satisfied.

(9) The term *FOIA Public Liaison* means an agency official who is responsible for assisting requesters in defining the scope of their request to reduce processing time, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

(10) The term *non-commercial scientific institution* means an institution that is not operated on a commercial basis, as that term is defined in these regulations, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To fall within this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but rather are sought to further scientific research.

(11) The term *perfected request* means a FOIA request for records that reasonably describes the records sought and has been received by ONCD in accordance with the requirements set forth in § 2200.4.

(12) The terms *representative of the news media* and *news media requester* mean any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of *news*) who make their products available for purchase by, subscription by, or through free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve, such as through electronic or digital means, such news sources shall be considered to be news media entities. A freelance journalist shall be regarded as working for a news media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(13) The term *requester* means any person, including an individual, partnership, corporation, association, Native American tribe, or other public or private organization, other than a Federal agency that requests access to records.

(14) The term *review* means the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located is permitted to be withheld. It includes the processing of any documents for disclosure—*i.e.,* doing all that is necessary to excise exempt information and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(15) The term *search* refers to the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format.

(16) The term *working day* means a regular Federal working day between the hours of 9:00 a.m. and 5:00 p.m. It does not include Saturdays, Sundays, or legal Federal holidays. Any requests received after 5:00 p.m. on any given working day will be considered received on the next working day.

§ 2200.4 Procedure for requesting records.

(a) *Format of requests*—(1) *In general.* Requests for information must be made in writing and may be delivered by mail or electronic mail, as specified in § 2200.2(c). All requests must be made in English. Requests for information may specify the preferred format (including electronic formats) of the response. When a requester does not specify the preferred format of the response, ONCD shall produce scanned records to be delivered electronically.

(2) *Records in electronic formats.* (i) ONCD shall provide responsive records in the format requested if the record or records are readily reproducible by ONCD in that format. ONCD shall make reasonable efforts to maintain its records in formats that are reproducible for the purposes of disclosure. For purposes of this paragraph (a)(2)(i), the term *readily reproducible* means, with respect to electronic format, a record that can be downloaded or transferred intact to an electronic medium using equipment currently in use by the agency processing the request. Even though some records may initially be readily reproducible, the need to segregate exempt records from nonexempt records may cause the releasable material to be not readily reproducible.

(ii) In responding to a request for records, ONCD shall make reasonable efforts to search for the records in electronic format, except where such efforts would interfere with the operation of the agency's automated information system(s). For purposes of this paragraph (a)(2)(ii), the term *search*

means to locate, manually or by automated means, agency records for the purpose of identifying those records that are responsive to a request.

(iii) Searches for records maintained in electronic format may require the application of codes, queries, or other minor forms of programming to retrieve the requested records.

(3) *Attachment restrictions.* To protect ONCD's computer systems, ONCD will not accept files sent as email attachments or as web links. A requester may submit a request by postal mail, by fax, or in the body of the email text.

(b) *Contents.* A request must describe the records sought in sufficient detail to enable ONCD personnel to locate the records with a reasonable amount of effort. To the extent possible, a requester should include specific information that may assist ONCD personnel in identifying the requested records, such as the date, title or name, author, recipient, and subject matter of the record. In general, a requester should include as much detail as possible about the specific records or the types of records sought. Before submitting a request, a requester may contact the ONCD FOIA Public Liaison to discuss the records sought and to receive assistance in describing the records. If, after receiving a request, ONCD determines that it does not reasonably describe the records sought or that the request will be unduly burdensome to process, ONCD shall inform the requester of the additional information that is needed or how the request may be modified. A Requester attempting to reformulate or modify such a request may discuss their requests with ONCD's FOIA Public Liaison.

(c) *Date of receipt.* A request that complies with paragraphs (a) and (b) of this section is deemed a ''perfected request.'' A perfected request is deemed received on the actual date it is received by ONCD. A request that does not comply with paragraphs (a) and (b) of this section is deemed received when information sufficient to perfect the request is actually received by ONCD.

(d) *Contact information.* A request must contain contact information, such as the requester's phone number, email address, or mailing address, to enable ONCD to communicate with the requester about the request and provide released records. If ONCD cannot contact the requester, or the requester does not respond within 30 calendar days to ONCD's requests for clarification, ONCD will administratively close the request.

(e) *Types of records not available.* The FOIA does not require ONCD to:

(1) Compile or create records solely for the purpose of satisfying a request for records;

(2) Provide records not yet in existence, even if such records may be expected to come into existence at some future time; or

(3) Restore records destroyed or otherwise disposed of, except that ONCD must notify the requester of the destruction or disposal of the requested records.

§ 2200.5 Responses to requests.

(a) *In general.* In determining which records are responsive to a request, ONCD will ordinarily include only records in its possession as of the date it begins its search for records. If any other date is used, ONCD shall inform the requester of that date.

(b) *Authority to grant or deny requests.* ONCD shall make initial determinations to grant or deny, in whole or in part, a request for records.

(c) *Granting of requests.* When ONCD determines that any responsive records shall be made available, ONCD shall notify the requester in writing and provide copies of the requested records in whole or in part. Records disclosed in part shall be marked or annotated to show the exemption(s) applied to the withheld information and the amount of information withheld unless doing so would harm the interest protected by an applicable exemption. If a requested record contains exempted material along with nonexempt material, all reasonably segregable material shall be disclosed.

(d) *Adverse determinations.* If ONCD makes an adverse determination denying a request in any respect, it must notify the requester of that adverse determination in writing. Adverse determinations include decisions that: The requested record is exempt from disclosure, in whole or in part; the request does not reasonably describe the records sought, but only if, after discussion with the FOIA Public Liaison, the requester refuses to modify the terms of the request; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not not readily reproducible in the form or format sought by the requester; denials involving fee or fee waiver matters; and denials of requests for expedited processing.

(e) *Content of adverse determinations.* Any adverse determination issued by ONCD must include:

(1) A brief statement, including any FOIA exemption applied by the agency in denying access to a record unless such inclusion would harm the interest protected by an applicable exemption;

(2) An estimate of the volume of any records or information withheld, although such an estimate is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable exemption;

(3) A statement that the adverse determination may be appealed under § 2200.8 and a description of the appeal requirements; and

(4) A statement notifying the requester of the assistance available from ONCD's FOIA Public Liaison and the dispute resolution services offered by the Office of Government Information Services.

(f) *Transfer of records to the National Archives and Records Administration (NARA).* Permanent records of ONCD which have been transferred to the control of NARA under the Federal Records Act are not in the control of ONCD and are therefore not accessible by a FOIA request to ONCD. Requests for such records should be directed to NARA.

(g) *Consultations, referrals, and coordinations.* When ONCD receives a request for a record in its possession, it shall determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA and, if so, whether it should be disclosed as a matter of administrative discretion. If ONCD determines that it is best able to process the record in response to the request, then it shall do so. If ONCD determines that it is not best able to process the record, then it shall proceed in one of the following ways:

(1) *Consultation.* When records originating with ONCD contain information of interest to another Federal agency, ONCD should typically consult with that Federal agency prior to making a release determination.

(2) *Referral.* (i) When ONCD believes that a different Federal agency is best able to determine whether to disclose the record, ONCD should typically refer the responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency creating the record is presumed to be the agency best able to determine whether the record should be disclosed. If ONCD and another Federal agency jointly agree that the agency processing the request is in the best position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever ONCD refers any part of the responsibility for responding to a

request to another agency it will notify the requester of the referral and the agency which will be processing the record.

(iii) After ONCD refers a record to another Federal agency, the agency receiving the referral shall make a disclosure determination and respond directly to the requester. The referral of a record is not an adverse determination and no appeal rights accrue to the requester therefrom.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the Federal agency to which a referral would be made could harm an interest protected by an applicable exemption, such as an exemption that protects personal privacy or national security interests. For example, if a non-law enforcement agency responding to a request for records on a living third party locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party is not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion into the personal privacy of the third party. Similarly, if an agency locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could harm national security interests.

§ 2200.6 Timing of responses to requests.

(a) *In general.* ONCD shall ordinarily respond to requests in order of their receipt.

(b) *Initial determinations.* ONCD will exercise all reasonable efforts to make an initial determination acknowledging and granting, partially granting, or denying a request for records within twenty working days (excepting Saturdays, Sundays, and legal public holidays) after receiving a perfected request. ONCD may toll this twenty (20) day period either one time while ONCD is awaiting information that it has reasonably requested from the requester or any time when necessary to clarify with the requester issues regarding fee assessment. ONCD's receipt of the requester's response to ONCD's request for information ends the tolling period.

(c) *Extensions of response time in ''unusual circumstances.''* (1) The twenty (20) working day period provided in paragraph (b) of this section may be extended if unusual circumstances arise. If an extension is necessary, ONCD shall promptly notify the requester of the extension, briefly state the reasons for the extension, and estimate when a response will be issued. Unusual circumstances warranting extension are:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(2) After ONCD notifies the requester of the reasons for the delay, the requester will have an opportunity to modify the request or arrange for an alternative time frame for completion of the request. To assist in this process, ONCD shall advise the requester of the availability of ONCD's FOIA Public Liaison to aid in the resolution of any disputes between the requester and ONCD, and notify the requester of his or her right to seek dispute resolution services from the Office of Government Information Services.

(d) *Expedited processing of request.* (1) A requester may make a request for expedited processing at any time.

(2) When a request for expedited processing is received, ONCD must determine whether to grant the request for expedited processing within ten (10) calendar days of its receipt. Such requests will be approved only when a compelling need is established to the satisfaction of ONCD. A compelling need is deemed to exist when:

(i) The requester can establish that failure to receive the records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) The requester is primarily engaged in disseminating information (*e.g.,* you are a member of the news media), and can demonstrate that an urgency to inform the public concerning actual or alleged Federal Government activity exists.

(3)(i) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail:

(A) The basis for making the request for expedited processing; and

(B) Why your request or appeal satisfies the requirements of paragraph (d)(2)(i) or (ii) of this section.

(ii) If you believe that you have an urgent need to inform the public about an actual alleged Federal Government activity, you should provide examples of other coverage of the same or related subjects. As a matter of administrative discretion, ONCD may waive the formal certification requirement.

(4) ONCD will notify you within 10 calendar days whether we will grant or deny you expedited processing.

(5) If ONCD denies you expedited processing, you may appeal that determination using the procedures in this part.

(e) *Multi-track processing.* (1) ONCD may use multi-track processing in responding to requests. Multi-track processing means placing simple requests that require limited review in one processing track and placing more voluminous and complex requests in one or more other processing tracks. Requests in each track are processed on a first-in, first-out basis.

(i) *Track one—expedited requests.* Track one is made up of requests that sought and received expedited processing as provided for in paragraph (d)(2) of this section.

(ii) *Track two—simple requests.* Track two is for requests of simple to moderate complexity that do not require consultations with other entities and do not involve voluminous records.

(iii) *Track three—complex requests.* Track three is for complex requests that involve voluminous records, require lengthy or numerous consultations, raise unique or novel legal questions, or require submitter review under § 2200.7.

(2) ONCD may provide requesters with requests in slower track(s) the opportunity to limit the scope of their requests to qualify for faster processing within the specified limits of faster track(s). ONCD will do so by contacting the requester by letter, telephone, email, or facsimile, whichever is more efficient in each case. When providing a requester with the opportunity to limit the scope of a request, ONCD shall also advise the requester of ONCD's FOIA Public Liaison to aid in the resolution of any dispute arising between the requester and ONCD as well as the requester's right to seek dispute resolution services from the Office of Government Information Services.

(f) *Aggregating requests.* ONCD may aggregate requests if it reasonably appears that multiple requests, submitted either by a single requester or by a group of requesters, act in concert and involve related matters. For example, ONCD may aggregate multiple

requests for similar information filed by a single requester within a short period of time. ONCD may also aggregate requests where a requester or associated requesters file a series of multiple requests, which are merely discrete subdivisions of the information actually sought for the purpose of avoiding or reducing applicable fees. In such instances, ONCD may aggregate the requests and charge the applicable fees.

§ 2200.7 Confidential commercial information.

(a) *In general.* Business information obtained by ONCD from a submitter will be disclosed under the FOIA only under this section.

(b) *Definitions.* For purposes of this section:

(1) *Confidential commercial information* means records provided to the government by a submitter that arguably contain material exempt from release under 5 U.S.C. 552(b)(4).

(2) *Submitter* means any person or entity from whom ONCD directly or indirectly obtains confidential commercial information. The term includes corporations; State, local, and tribal governments; universities; non-profit organizations; associations; and foreign governments.

(c) *Designation of business information.* Either at the time of submission or at a reasonable time thereafter, a submitter of business information will use good-faith efforts to designate, by appropriate markings, any portions of its submission that it considers to be protected from disclosure under 5 U.S.C. 552(b)(4). These designations will expire ten years after the date of submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* ONCD shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information to give the submitter an opportunity to object to disclosure of any specified portion of that information. The notice shall either describe the business information requested or include copies of the requested records or record portions containing the information. When notification of a voluminous number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification.

(e) *Where notice is required.* Notice shall be given to a submitter whenever:

(1) The information has been designated in good faith by the submitter as information considered protected from disclosure under 5 U.S.C. 552(b)(4); or

(2) ONCD has reason to believe that the information may be protected from disclosure under 5 U.S.C. 552(b)(4).

(f) *Opportunity to object to disclosure.* ONCD will allow a submitter reasonable time to respond to the notice described in paragraph (d) of this section and will specify that time period within the notice. If a submitter has any objection to disclosure, the submitter must provide a detailed written statement of objections. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of information withheld under 5 U.S.C. 552(b)(4), the submitter must demonstrate the reasons the submitter believes the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to adequately respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information. Information provided by the submitter that ONCD does not receive within the time specified shall not be considered by ONCD. Information provided by a submitter under this paragraph (f) may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* ONCD shall consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose business information. Whenever ONCD determines that disclosure is appropriate over the objection of a submitter, ONCD shall, within a reasonable number of days prior to disclosure, provide the submitter with written notice of the intent to disclose, which shall include:

(1) A statement of the reason(s) why each of the submitter's objections to disclosure was not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) ONCD determines that the information should not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 of June 23, 1987;

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous. In such a case, ONCD shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information, but no opportunity to object will be offered; or

(5) The information requested was not designated by the submitter as exempt from disclosure in accordance with this part, when the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless ONCD has substantial reason to believe that disclosure of the information would result in competitive harm.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, ONCD shall promptly notify the submitter. The submitter, as specified in paragraph (b)(2) of this section, shall provide such litigation assistance as required by ONCD and the Department of Justice.

(j) *Notice to requesters.* Whenever ONCD provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, ONCD shall also notify the requester(s). Whenever ONCD notifies a submitter of its intent to disclose requested information under paragraph (g) of this section, ONCD shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, ONCD shall notify the requester(s).

§ 2200.8 Appeal of denials.

(a) *Right to administrative appeal.* A requester has the right to appeal to the FOIA Public Liaison any adverse determination.

(b) *Notice of appeal*—(1) *Time for appeal.* To be considered timely, an appeal must be postmarked, or in the case of electronic submissions, transmitted no later than ninety (90) calendar days after the date of the initial adverse determination or after the time limit for response by ONCD has expired. Prior to submitting an appeal, the requester must pay in full any outstanding fees associated with the request.

(2) *Form of appeal.* An appeal shall be initiated by filing a written notice of appeal. The notice shall specify the tracking number assigned to the FOIA request by ONCD and be accompanied by copies of the original request and adverse determination. To expedite the appellate process and give the requester an opportunity to present his or her

arguments, the notice should contain a brief statement of the reason(s) why the requester believes the adverse determination to be in error. Requesters may submit appeals by mail or electronically. If sent by regular mail, appeals shall be sent to: FOIA Public Liaison, Office of the National Cyber Director, New Executive Office Building, 725 17th Street NW, Washington, DC 20504. Appeals sent via electronic mail shall be submitted to ONCD at *foia@ncd.eop.gov, with subject line:* ''*Freedom of Information Act Appeal.*'' If your email includes attachments, you must also explain your request in the body of the email, in addition to the attachment. Updates to this contact information will be made on the ONCD website. To facilitate handling, the requester should mark both the appeal letter and envelope, if submitted by mail, or subject line of the transmission, if submitted electronically, with ''Freedom of Information Act Appeal.'' Your appeal must include your request's individualized tracking number and must identify the specific ONCD determinations you are appealing. If you fail to properly appeal a determination that ONCD made in processing your request, you may lose your right to challenge that determination in federal court.

(c) *Decisions on appeals.* ONCD shall make a determination in writing on the appeal under 5 U.S.C. 552(a)(6)(A)(ii) within twenty (20) working days after the receipt of the appeal. If the denial is wholly or partially upheld, ONCD shall:

(1) Notify the requester that judicial review is available pursuant to 5 U.S.C. 552(a)(4)(B)–(G); and

(2) Notify the requester that the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

(d) *Dispute resolution services.* Dispute resolution is a voluntary process. If ONCD agrees to participate in the dispute resolution services provided by the Office of Government Information Services, it will actively engage as a partner to the process in an attempt to resolve the dispute.

(e) *When appeal is required.* Before seeking judicial review of ONCD's adverse determination in Federal district court, a requester generally must first submit a timely administrative appeal.

§ 2200.9 Fees.

(a) *Fees generally required.* ONCD shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. ONCD shall charge fees in accordance with paragraph (b) of this section unless fees are waived or reduced in accordance with § 2200.10.

(b) *Calculation of fees.* In general, fees for searching, reviewing, and duplication will be based on the direct costs of these services, including the average hourly salary (basic pay plus 16% for benefits) of the personnel conducting the search, reviewing the records for exemption, or duplicating the records. Charges for time less than a full hour will be in increments of quarter hours.

(1) *Search fees.* Search fees may be charged even if responsive documents are not located or are located but withheld on the basis of an exemption. However, search fees shall not be charged or shall be limited as follows:

(i) *Educational, scientific, or news media requests.* No search fee shall be charged if the request is not sought for a commercial use and is made by an educational or non-commercial scientific institution, whose purpose is scholarly or scientific research, or by a representative of the news media.

(ii) *Other non-commercial requests.* No search fee shall be charged for the first two hours of searching if the request is not for a commercial use and is submitted by an entity that is not an educational or scientific institution, whose purpose is scholarly or scientific research, or a representative of the news media.

(2) *Review fees.* Review fees shall be assessed only with respect to those requesters who seek records for a commercial use. A review fee shall be charged for the initial examination of documents located in response to a request to determine whether the documents may be withheld from disclosure and for the redaction of document portions exempt from disclosure. Records or portions of records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such subsequent review are also assessable.

(3) *Duplication fees.* Records will be photocopied at a rate of ten cents ($0.10) per page. For other methods of reproduction or duplication, ONCD will charge the actual direct costs of producing the document(s). Duplication fees shall not be charged for the first 100 pages of copies unless the copies are requested for a commercial use.

(c) *Aggregation of requests.* When ONCD determines that a requester, or a group of requesters acting in concert, is attempting to evade the assessment of fees by submitting multiple requests in place of a single, more complex request, ONCD may aggregate any such requests and assess fees accordingly.

(d) *Fees likely to exceed $25.* If total fee charges are likely to exceed $25, ONCD shall notify the requester of the estimated amount to be charged. The notification shall offer the requester an opportunity to confer with the FOIA Public Liaison to reformulate the request to meet the requester's needs at a lower cost. ONCD may administratively close a submitted FOIA request if the requester does not respond in writing within thirty (30) calendar days after the date on which ONCD notifies the requester of the fee estimate.

(e) *Advance payments.* Fees may be paid upon provision of the requested records, except that payment may be required prior to that time if the requester has previously failed to pay fees or if ONCD determines that the total fees will exceed $250. When payment is required in advance of the processing of a request, the time limits prescribed in § 2200.6 shall not be deemed to begin until ONCD has received payment of the assessed fees. If the requester has previously failed to pay fees or charges are likely to exceed $250, ONCD shall notify the requester of the estimated cost and:

(1) Obtain satisfactory assurance from the requester, in writing, of full payment; or

(2) ONCD may require the requester to pay the full amount of any fees owed or make an advance payment of the full amount of ONCD's estimated charges.

(3) If ONCD does not receive an adequate response, assurance, or advance payment within thirty (30) calendar days of a fee determination or notification issued under the authority of this section, ONCD will administratively close the corresponding request.

(f) *Other charges.* ONCD will recover the full costs of providing services, such as those enumerated below, when it elects to provide them:

(1) Certifying that records are true copies; or

(2) Sending records by special methods, such as express mail.

(g) *Remittances.* Remittances shall be made either via personal check or bank draft drawn on a bank in the United States, or by postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed to the Chief FOIA Officer, Office of the Office of the National Cyber Director, New Executive Office Building, 725 17th Street NW,

Washington, DC 20504. Updates to this contact information will be made on the ONCD website.

(h) *Receipts and refunds.* ONCD will provide a receipt for fees paid upon request. ONCD will not refund fees paid for services actually rendered.

§ 2200.10 Waiver of fees.

(a) *In general.* ONCD shall waive part or all of the fees assessed under § 2200.9 if, based upon information provided by a requester or otherwise made known to ONCD the disclosure of the requested information is in the public interest. Disclosure is in the public interest if it is likely to contribute significantly to public understanding of government operations or activities and is not primarily for commercial purposes. Requests for a waiver or reduction of fees shall be considered on a case-by-case basis. To determine whether a fee waiver requirement is met, ONCD shall consider the following factors:

(1) Disclosure of the requested information would shed light on the operations or activities of the Federal Government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(2) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(i) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information already in the public domain, in either the same or a substantially similar form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(ii) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public must be considered. ONCD will presume that a representative of the news media will satisfy this consideration.

(3) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, ONCD will consider the following criteria:

(i) ONCD will identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters are encouraged to provide explanatory information regarding this consideration.

(ii) If there is an identified commercial interest, ONCD will determine whether that is the primary interest furthered by the request. ONCD will ordinarily presume that when a news media requester has satisfied the conditions in paragraphs (a)(1) and (2) of this section, the request is not primarily in the commercial interest of the requester. Data brokers or others who merely compile and market government information for direct economic return will not receive the benefit of this presumption.

(b) *Timing of fee waivers.* A request for a waiver or reduction of fees should be made when a request for records is first submitted to the agency and should address the criteria referenced in paragraph (a) of this section. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester must pay any costs incurred up to the date of the fee waiver request was received.

(c) *Clarification.* Where ONCD has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, ONCD may seek clarification from the requester before assigning the request to a specific category for fee assessment purposes.

(d) *Restrictions on charging fees.* Except as described in paragraphs (d)(1) through (3) of this section, if ONCD fails to comply with the FOIA's time limits for responding to a request, it may not charge search fees. In addition, subject to the exceptions set forth in paragraphs (d)(1) through (3) of this section, if ONCD does not comply with the FOIA's time limits for responding to a request, it may not charge duplication fees when records are not sought for a commercial use and the request is made by an educational institution, non-commercial scientific institution, or representative of the news media.

(1) If ONCD determines that unusual circumstances, as defined by the FOIA, apply and provides timely written notice to the requester in accordance with the FOIA, then a failure to comply with the statutory time limit shall be excused for an additional ten days.

(2) If ONCD determines that unusual circumstances, as defined by the FOIA, apply and more than 5,000 pages are necessary to respond to the request, then ONCD may charge search fees and duplication fees, where applicable, if the following steps are taken. ONCD must:

(i) Provide timely written notice of unusual circumstances to the requester in accordance with the FOIA; and

(ii) Discuss with the requester via postal mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

(3) If a court determines that exceptional circumstances exist, as defined by the FOIA, then a failure to comply with the statutory time limits shall be excused for the length of time provided by the court order.

§ 2200.11 Maintenance of statistics.

(a) ONCD shall maintain records sufficient to allow accurate reporting of FOIA processing statistics, as required under 5 U.S.C. 552(e) and all guidelines for the preparation of annual FOIA reports issued by the Department of Justice.

(b) ONCD shall annually, on or before February 1 of each year, prepare and submit to the Attorney General an annual report compiling the statistics maintained in accordance with paragraph (a) of this section for the previous fiscal year. A copy of the report will be available for public inspection on the ONCD website.

§ 2200.12 Disclaimer.

Nothing in this part shall be construed to entitle any person, as a right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

PART 2201—REGULATIONS IMPLEMENTING THE PRIVACY ACT

Sec.

2201.1 General provisions.
2201.2 Requirements for making requests for access.
2201.3 Responsibility for responding to requests.
2201.4 Requests for an accounting.
2201.5 Requests for an amendment or correction.
2201.6 Appeals.
2201.7 Fees.

Authority: 5 U.S.C. 552a.

§ 2201.1 General provisions.

(a) *Purpose and scope.* This part implements the rules that the Office of the National Cyber Director (ONCD) follows under the Privacy Act of 1974,

codified as amended at 5 U.S.C. 552a (Privacy Act). This part applies to all records in systems of records maintained by ONCD that are retrieved by an individual's name or personal identifier. This part describes the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by ONCD.

(b) *Definitions.* As used in this part:

Request for access to a record means a request made under 5 U.S.C. 552a(d)(1).

Request for amendment or correction of a record means a request made under 5 U.S.C. 552a(d)(2).

Request for an accounting means a request made under 5 U.S.C. 552a(c)(3).

Requester means an individual who makes a request for access, a request for amendment or correction, or a request for an accounting under the Privacy Act. An *individual* is a citizen of the United States or an alien lawfully admitted for permanent residence.

System manager means the ONCD official identified in a system of records notice as the manager of a system of records; and for Government-wide systems of records, the individual designated by the agency to act on behalf of the system manager.

(c) *Providing written consent to disclose records protected under the Privacy Act.* ONCD may disclose any record contained in a system of records by any means of communication to any person, or to another agency, pursuant to a written request by, or with the prior written consent of, the individual about whom the record pertains. An individual must verify the individual's identity in the same manner as required by § 2201.2(d) when providing written consent to disclose a record protected under the Privacy Act and pertaining to the individual.

§ 2201.2 Requirements for making requests for access.

(a) *How made and addressed.* You may make a Privacy Act request for access to an ONCD record by mail or delivery service, to Office of General Counsel, Office of the National Cyber Director, 725 17th Street NW, Washington, DC 20503 or by electronic means via email to *FOIA@ncd.eop.gov.*

(b) *Description of the records sought.* In making a request for access, you must describe the records that you want in enough detail to enable ONCD to locate the system of records containing them with a reasonable amount of effort. Your access request should name the system of records or contain a concise description of such system of records. If you are not sure which system of records you are interested in, you may request that ONCD inform you which of its systems of records, if any, contain records about you.

(c) *Information about yourself.* Your access request should also contain sufficient information to identify yourself in order to allow ONCD to determine if there is a record pertaining to you in a particular system of records.

(d) *Verification of identity.* To ensure that information about you is disclosed only to you or your authorized representative, you are required to verify your identity when making a Privacy Act request for access, as detailed in paragraphs (d)(1) through (3) of this section.

(1) You must state your name, current address, and date and place of birth and provide either a notarized statement of identity or a signed submission under 28 U.S.C. 1746; or

(2) When available, verify your identity through remote identity-proofing and authentication using digital processes.

(3) ONCD may require you to supply additional information as necessary in order to verify your identity.

(e) *Verification of guardianship.* When making a request for access as the parent or guardian of a minor or as the guardian of someone determined by a court of competent jurisdiction to be incompetent, for access to records about that individual, you must establish the criteria listed in paragraphs (e)(1) through (4) of this section. If ONCD cannot verify your identity, disclosure will be limited to information that would be required to be made available if requested under 5 U.S.C. 552 by any person.

(1) The identity of the individual who is the subject of the record, by stating the name, current address, and date and place of birth;

(2) Your own identity, as required in this paragraph (e);

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual's birth certificate showing your parentage or by providing a court order establishing your guardianship; and

(4) That you are acting on behalf of that individual in making the request.

(f) *Submit identifying information only using approved ONCD processes.* In order to safeguard information you submit in making a request for access for purposes of verifying your identity or verifying guardianship, or any information about yourself that may assist in the rapid identification of the record to which you are requesting access (*e.g.,* prior names, dates of employment, etc.) as well as any other identifying information contained in an ONCD system of records, you must use one of ONCD's approved processes as described on ONCD's privacy program web page. Failure to submit identifying information through an ONCD approved process may result in the failure to expunge your information in accordance with approved ONCD records schedules after your access request has been processed.

(g) *Subsequent requests for access.* If your request for access follows a prior request under this section, and you already provided appropriate verifications with that prior request, you do not need to include the same verification or identifying information in the subsequent request for access if you reference that prior request or attach a copy of the ONCD response to that request.

§ 2201.3 Responsibility for responding to requests.

(a) *Acknowledgment of requests.* ONCD will acknowledge your request for access in writing and provide an individualized tracking number. Upon request, ONCD will make information available to you about the status of your request using the assigned tracking number.

(b) *Timing of responses to a Privacy Act request for access.* ONCD will respond to Privacy Act requests for access to records according to the order in which ONCD receives the requests. Consistent with ONCD's Freedom of Information Act (FOIA) procedures at 32 CFR part 2200, ONCD may designate multiple processing tracks that distinguish between simple and more complex Privacy Act requests for access, based on the estimated amount of work or time needed to process the request.

(c) *Additional information.* If, after receiving a request, ONCD determines that your request does not reasonably describe the records sought, ONCD will inform you what additional information is needed and why the request is otherwise insufficient. If a request does not reasonably describe the records sought, ONCD's response to the request may be delayed.

(d) *Grant of request for access.* Once ONCD makes a determination to grant a request for access, ONCD will provide you a written response, which may include the following:

(1) A statement as to whether ONCD will grant access by providing a copy of the record through electronic means or the mail; and

(2) The amount of fees charged, if any (see § 2201.7). (Fees are applicable only to requests for duplicates.)

(e) *Adverse determination of request for access.* ONCD will notify you of an adverse determination denying a request for access in writing. Adverse determinations, or denials of requests, may consist of: A determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Privacy Act or the Privacy Act exempts the system containing your records from the requirement ONCD provide those records upon request; a determination that ONCD prepared the records you are seeking in reasonable anticipation of a civil action or proceeding (that is, a lawsuit or a similar proceeding); a determination on any disputed fee matter; or a denial of a request for expedited treatment. ONCD's notification letter to you will include the reason for its decision and explain how you can appeal.

§ 2201.4 Requests for an accounting.

You may request an accounting of disclosures by the same rules governing requests for access, outlined in § 2201.2.

§ 2201.5 Requests for an amendment or correction.

(a) *Requirement for written requests.* If you want to amend a record that pertains to you in a system of records maintained by ONCD, you must submit your request in writing following the procedures established in this section. ONCD is not required to amend records that are not subject to the Privacy Act of 1974. However, individuals who believe that such records are inaccurate may bring this to the attention of ONCD.

(b) *Procedures.* (1) You should address your request to amend a record in a system of records to the system manager. You should include the name of the system and a brief description of the record proposed for amendment. If the request to amend the record is the result of you gaining access to the record in accordance with the provisions concerning access to records as set forth in § 2201.2, you may attach a copy of previous correspondence between you and ONCD instead of providing a separate description of the record.

(2) If a requester cannot determine where within ONCD to send the Privacy Act request to amend a record, the requester may send by mail or delivery to Office of General Counsel, Office of the National Cyber Director, 725 17th Street NW, Washington, DC 20506 or by electronic means as described on ONCD's privacy program web page: *https://www.whitehouse.gov/oncd/information-resources/.* ONCD will forward the request to the component(s) it believes most likely to have the relevant records. For the quickest possible handling, the requester should specify ''Privacy Act Record Amendment Request'' on the letter.

(3) You must validate your identity as described in § 2201.2(d). If ONCD has previously verified your identity pursuant to § 2201.2(d), further verification of identity is not required as long as the communication does not suggest that a need for verification is present.

(4) You should clearly indicate the exact portion of the record you seek to have amended. If possible, you should also propose alternative language, or at a minimum, identify the facts that you believe are not accurate, relevant, timely, or complete, with such particularity as to permit ONCD not only to understand the basis for your request, but also to make an appropriate amendment to the record.

(5) Your request must also state why you believe your record is not accurate, relevant, timely, or complete, explain exactly what change(s) you are requesting, and point out specific pieces of information in your ONCD records that are inaccurate, irrelevant, outdated, or incomplete. The burden of persuading ONCD to amend a record will be upon you. You must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness, or incompleteness of the record.

(c) *ONCD action on the request.* (1) ONCD will acknowledge, in writing, receipt of a request to amend a record within 10 business days (*i.e.,* excluding Saturdays, Sundays, and legal Federal holidays) of ONCD's receipt.

(2) ONCD will promptly respond to a Privacy Act request for amendment or correction. ONCD ordinarily will respond to Privacy Act requests for amendment or correction according to their order of receipt. Consistent with ONCD's FOIA procedures at 32 CFR part 2200, ONCD may designate multiple processing tracks that distinguish between simple and more complex Privacy Act requests for amendment or correction, based on the estimated amount of work or time needed to process the request. The response reflecting the decision upon a request for amendment will include the following:

(i) The decision of ONCD whether to grant in whole, or deny any part of, the request to amend the record;

(ii) The reasons for the determination for any portion of the request which is denied; and

(iii) A description of the procedure by which the ONCD decision to deny your request may be appealed, including the name and address of the official with whom you may lodge such an appeal.

§ 2201.6 Appeals.

(a) If you wish to appeal a decision by ONCD with regard to your request to access or amend a record in accordance with the provisions of §§ 2201.2 and 2201.5, you should submit the appeal in writing and, to the extent possible, include the information specified in paragraph (b) of this section.

(b) Your appeal should contain a brief description of the record involved or copies of the correspondence from ONCD in which the request to access or to amend was denied and also the reasons why you believe that access should be granted or the information amended, as relevant. Your appeal should refer to the information you furnished in support of your claim and the reasons set forth by ONCD in its decision denying access or amendment, as required by §§ 2201.2 and 2201.5. In order to make the appeal process as meaningful as possible, you should set forth your disagreement in an understandable manner. In order to avoid the unnecessary retention of personal information, ONCD reserves the right to dispose of the material concerning the request to access or amend a record if ONCD receives no appeal in accordance with this section within 180 days of the sending by ONCD of its decision upon an initial request. ONCD may treat an appeal received after the 180-day period as an initial request to access or amend a record.

(c) You may send your appeal by mail or delivery to the Office of General Counsel, Office of the National Cyber Director, 725 17th Street NW, Washington, DC 20506 or by electronic means as described on ONCD's web page: *https://www.whitehouse.gov/oncd/information-resources/.* For the quickest possible handling, the requester should specify ''Privacy Act Record Appeal'' on the letter.

(d) ONCD will review your appeal, decide whether to grant or deny it, and inform you of the decision within thirty (30) business days (excluding Saturdays, Sundays, and legal Federal holidays) from the date on which the individual requests such review or appeal. In the event it is necessary to extend the time for making a decision, the requestor will be informed of the delay and provide an explanation in writing. If ONCD's

decision does not grant in full the request, the notice of the decision will describe the steps you may take to obtain judicial review of such a decision.

§ 2201.7 Fees.

(a) *Prohibitions against charging fees for Privacy Act requests.* ONCD will not charge you for:

(1) The search and review of requests for records subject to this part;

(2) Any copies of the record produced as a necessary part of the process of making the record available for access; or

(3) Any copies of the requested record when ONCD determines that the only way you can access the record is by providing a copy to you through the mail.

(b) *Waiver.* ONCD may at no charge provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) *Fee schedule and method of payment.* ONCD will charge fees as provided in paragraphs (c)(1) through (5) of this section except as provided in paragraphs (a) and (b) of this section.

(1) ONCD will duplicate records at a rate of $.10 per page for all copying of 4 pages or more. There is no charge for duplication 3 or fewer pages.

(2) Where ONCD anticipates that the fees chargeable under this section will amount to more than $25.00, ONCD shall promptly notify you of the amount of the anticipated fee or such portion thereof as can readily be estimated. If the estimated fees will greatly exceed $25.00, ONCD may require an advance deposit. ONCD's request for an advance deposit shall extend an offer to the requester to consult with ONCD personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet the needs of the requester.

(3) You should pay fees in full before the requested copies are issued. If the requester is in arrears for previous requests, ONCD will not provide copies for any subsequent request until the arrears have been paid in full.

(4) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Office of General Counsel, Office of the National Cyber Director, 725 17th Street NW, Washington, DC 20503.

(5) ONCD will provide a receipt for fees paid upon request.

PARTS 2202–2299 [RESERVED]

Dated: March 27, 2026.

Carina Bergal,

Deputy General Counsel, Office of the National Cyber Director.

[FR Doc. 2026–06195 Filed 3–30–26; 8:45 am]

BILLING CODE 3340–D3–P

Notices

Federal Register
Vol. 91, No. 61
Tuesday, March 31, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

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

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

Foreign Agricultural Service

Title: Sugar Imported for Exports as Refined Sugar, as a Sugar-Containing Product, or Used in Production of Certain Polyhydric Alcohols.

OMB Control Number: 0551–0015.

Summary of Collection: The regulation at 7 CFR part 1530 authorizes the Foreign Agricultural Service (FAS) to issue import licenses to enter raw cane sugar exempt from the tariff-rate quota (TRQ) for the raw cane sugar imports and related requirements on the condition that an equivalent quantity of refined sugar be: (1) exported as refined sugar; (2) exported as an ingredient in sugar containing products; or (3) used in production of certain polyhydric alcohols. The information requirements set forth in the regulation are necessary to enable FAS to administer the licensing program in full compliance with the regulation and to ensure that licensed imports do not enter the commercial sugar market in circumvention of the TRQ for raw cane sugar.

Need and Use of the Information: FAS will collect information to verify that the world-priced sugar is in fact exported and not diverted onto the domestic market, thereby undermining the objectives of politically sensitive U.S. sugar policies. This collection enables USDA to monitor participants to ensure compliance with program parameters. Without the collection, there would be an increased opportunity to divert sugar onto the domestic market.

Description of Respondents: Business or other for-profit.

Number of Respondents: 301.

Frequency of Responses: Recordkeeping; Reporting; Quarterly.

Total Burden Hours: 309.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–06144 Filed 3–30–26; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Labelling

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on April 23, 2026. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. position to be discussed at the 49th Session of the Codex Committee on Food Labelling (CCFL49) of the Codex Alimentarius Commission (CAC). CCFL49 will be held in Ottawa, Canada, from May 11 to 15, 2026. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 49th Session of the CCFL and to address items on the agenda.

DATES: The public meeting is scheduled for April 23, 2026, from 1:00–3:00 p.m. ET.

ADDRESSES: The public meeting will take place via video teleconference only. Documents related to the 49th Session of the CCFL will be accessible via the internet at the following address: *https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCFL&session=49.*

Dr. Douglas Balentine, U.S. Delegate to the 49th Session of the CCFL, invites interested U.S. parties to submit their comments electronically to the following email address: *douglas.balentine@fda.hhs.gov.* Comments should state that they relate to the activities of the 49th Session of the CCFL.

Registration: Attendees may register to attend the public meeting at the following link: *https://www.zoomgov.com/meeting/register/e8jLXqHuSsmkjr6XCJIZGg.* After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 49th Session of the CCFL, contact the U.S. Delegate, Dr. Douglas Balentine, by

email at: *douglas.balentine@fda.hhs.gov.* For additional information regarding the public meeting, contact the U.S. Codex Office by email at: *uscodex@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on Food Labelling (CCFL) are:

(a) to draft provisions on labelling applicable to all foods;

(b) to consider, amend if necessary, and endorse draft specific provisions on labelling prepared by the Codex Committees drafting standards, codes of practice and guidelines;

(c) to study specific labelling problems assigned to it by the Commission; and,

(d) to study problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The CCFL is hosted by Canada. The United States attends the CCFL as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items from the Provisional Agenda for the 49th Session of the CCFL will be discussed during the public meeting:

- Matters referred by the Codex Alimentarius Commission and/or its subsidiary bodies
- The use of ''country of harvest'' in addition to the mandatory declaration of country of origin in food labelling of spices
- Matters of interest from international organizations
- Consideration of labelling provisions in draft Codex standards (endorsement)
- Annex to the General standard for the labelling of pre-packaged foods (CXS 1–1985): Guidelines on the use of precautionary allergen labelling (PAL)
- Amendments to the General standard for the labelling of pre-packaged foods (CXS 1–1985): Provisions relevant to joint presentation and multipack formats
- Guidelines on application of food labelling provisions in emergencies
- Future work and emerging issues
- Other business

Public Meeting

At the April 23, 2026, public meeting, agenda items and draft U.S. positions will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Dr. Douglas Balentine, U.S. Delegate to the 49th Session of the CCFL, at *douglas.balentine@fda.hhs.gov.* Written comments should state that they relate to activities of the 49th Session of the CCFL.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: *https://www.usda.gov/codex.*

(Authority: 19 U.S.C. 2578; Pres. Proc. 6780; 7 CFR part 2.602.)

Done at Washington, DC, on March 26, 2026.

Julie A. Chao,

Deputy U.S. Manager for Codex Alimentarius.

[FR Doc. 2026–06134 Filed 3–30–26; 8:45 am]

BILLING CODE 3420–3F–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: USDA Professional Standards Trainings and Tracker Tool (PSTTT)

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is an extension, without change, of a currently approved collection for assisting State agencies and school nutrition professionals in searching for trainings, recording, tracking, and managing the required training hours for State and local school district nutrition professionals, in four major areas (nutrition, operations, administration, and communications and marketing), to meet the requirements of the Healthy Hunger Free Kids Act (HHFKA) of 2010 Professional Standards Rule.

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

ADDRESSES: Comments may be sent to the Nutrition and Technical Assistance Branch, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, 4th Floor, Alexandria, VA 22314. Comments may also be submitted to the attention of the Nutrition and Technical Assistance Branch via email to *cnpntab@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Brittany Gorman at 703–305–2621 or *cnpntab@usda.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: USDA Professional Standards Trainings and Tracker Tool (PSTTT).

Form Number: None.

OMB Number: 0584–0626.

Expiration Date: September 30, 2026.

Type of Request: Extension, without change, of a currently approved collection.

Abstract: The Healthy Hunger Free Kids Act (HHFKA) of 2010 (Section 306) requires Professional Standards for State and local school district nutrition professionals. In addition to hiring standards, mandatory annual training is required for all individuals involved in preparing school meals. To meet the training requirements and assist in locating and keeping track of training, USDA's FNS provides a web-based application tool with a Structured Query Language (SQL)-server database,

which is available for employees of State agencies, local educational agencies, and school food authorities through the FNS public website, as a guest user or with Login.gov. While training requirements are mandatory, using the USDA Professional Standards Trainings and Tracker Tool (PSTTT) is voluntary. The tool facilitates compliance with HHFKA requirements and is provided at no cost. In addition, FNS provides a mobile-friendly version of the PSTTT application to ensure easy usage and accessibility across mobile devices. The application is compatible with all mobile operating systems (iOS, Android, and Windows).

The user can create a user profile with the following information:

- School District/Address
- School Name/Address
- Individual's Name
- Email Address
- Job Title and Role
- Hiring Date

The user will enter the following information:

- Key Area
- Training Topic
- Learning Objective
- Training Title
- Training Hours/Minutes
- Date of Training
- Training Provider or Organization (including State, local or national)

The user can enter multiple employee names for one specific training. Users can print certificates of completion for trainings. The tool provides the user with the ability to export and save results in multiple file formats, including portable document format (.pdf), Microsoft Excel (.xlsx), and Word Files versions 2000 or higher (.docx). Streamlined and intuitive navigation is offered to allow for easy access to all functionalities. In July 2025, the PSTTT integrated the former Professional Standards Training Database into the PSTTT, allowing for guest user access to search for relevant professional standards trainings to take in addition to logging completed trainings—this resulted in renaming the tool from the ''Professional Standards Training Tracker Tool'' to the ''Professional Standards Trainings and Tracker Tool'' to more accurately reflect the PSTTT's capabilities. In this notice, the previous requirements listed as ''State agency personnel'' and ''school nutrition professionals'' has been clarified to include the estimated burden encompasses the time users are expected to spend using the tool (*e.g.,* searching and logging trainings).

Affected Public: State, Local, and Tribal Government. Respondent groups include Stage agency personnel and school nutrition professionals.

Estimated Number of Respondents: The total estimated number of respondents is 10,006. This includes six State agency personnel and 10,000 school nutrition professionals who voluntarily choose to utilize this tracking tool as registered users. All respondents will be offered a 60-minute training webinar on features of the tool.

Estimated Number of Responses per Respondent: Total estimated number of responses per respondent across the entire collection is seven. The estimated number of responses per respondent for the tracking tool is five. The tracking tool users will first be required to create their user profile, which will be saved for future use. It is estimated that the user will be searching for trainings, updating, and managing their records on a quarterly basis. The estimated number of responses per respondent for the training webinar is two; one for the live webinar and one for the recorded training.

Estimated Total Annual Responses: 70,042.

Estimated Time per Response: The average estimated time per response for all of the participants, across all of the activities in this collection, is approximately 14 minutes (0.24 hours). For the USDA Professional Standards Trainings and Tracker Tool (PSTTT), the estimated time of response varies from five to 10 minutes depending on familiarity of the tool and the number of reports created, with an average estimated time of 7.5 minutes (0.125 hours) for all participants. The annual training webinar of 60 minutes (1 hour) will be available for all participants. Participants will search for and record trainings into the tracking tool, which is estimated to take 5 minutes (0.083 hours) to complete.

Estimated Total Annual Burden on Respondents: 17,090.25 hours (rounded to 17,090 hours).

See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number respondent	Responses annually per respondent	Total annual responses (col. b x c)	Estimated average number of hours per response	Estimated total hours (col. d x e)
Reporting Burden for State, Local, and Tribal Govt					
State agency personnel sessions, searching and logging trainings	6	5	30	0.125	3.75
Training webinar	6	1	6	1	6
Recording of trainings on the tool	6	1	6	0.083	0.498
School nutrition professionals sessions, searching and logging trainings	10,000	5	50,000	0.125	6,250
Training webinar	10,000	1	10,000	1	10,000
Recording of trainings on the tool	10,000	1	10,000	0.083	830
Total Reporting Burden	10,006	7	70,042	0.24	17,090.25

Patrick A. Penn,

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

[FR Doc. 2026–06167 Filed 3–30–26; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Commercial Use of the Woodsy Owl Symbol

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service (Agency) is seeking comments from all interested individuals and organizations on the renewal of a currently approved information collection, *Commercial Use of the Woodsy Owl Symbol.*

DATES: Comments must be received in writing on or before June 1, 2026 to be assured of consideration.

ADDRESSES: Comments concerning this notice should be addressed to: USDA, Forest Service, Iris Velez, National Symbols Program Manager, USDA Forest Service, National Symbols Cache, 402 SE 11th Street, Grand Rapids, MN 55744. Comments also may be submitted by email to *iris.velez@usda.gov.*

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available for public viewing. Please note that comments containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may request that an electronic copy of the supporting documents for the information collection and/or any comments received be sent via return email. Requests should be emailed to *iris.velez@usda.gov* The information collection request is posted online at *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT: Iris Velez, National Symbols Program Manager, 202–316–3969; *iris.velez@usda.gov.* Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service then provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Title: Commercial Use of the Woodsy Owl Symbol.

OMB Number: 0596–0164.

Expiration Date of Approval: June 30, 2026.

Type of Review: Extension with Revision of a currently approved information collection.

Abstract: The Woodsy Owl-Smoky Bear Act of 1974 established the Woodsy Owl symbol and slogan, authorizes the Secretary of Agriculture to manage the use of the slogan and symbol, authorizes the licensing of the symbol for commercial use, and provides for continued protection of the symbol. Part 272 of Title 36 of the Code of Federal Regulations authorizes the Chief of the Forest Service to approve commercial use of the Woodsy Owl symbol and to collect royalty fees. Commercial use includes replicating Woodsy Owl symbol or logo on items, such as tee shirts, mugs, pins, figurines, ornaments, stickers, and toys and using the image and or slogan of the icon in motion pictures, documentaries, TV, magazine stories, books, magazines, and other for-profit paper products.

Woodsy Owl is America's symbol for the conservation of the environment. The public service campaign slogans associated with Woodsy Owl are ''Give a Hoot, Don't Pollute'' and ''Lend a Hand, Care for the Land.'' The mission statement of the Woodsy Owl's conservation campaign is to help young children discover the natural world and join in life-long actions to care for that world.

The USDA Forest Service National Symbols Program Manager will use the collected information to determine if the applicant will receive a license or renewal of an existing license and the associated royalty fees. Information collected includes, but is not limited to, tenure of business or non-profit organization, current or planned products, physical location, projected sales volume, and marketing plans. Licensees submit quarterly reports, which include:

1. A list of each item sold with the Woodsy Owl symbol.
2. Projected sales of each item.
3. Sales price of each item.
4. Total sales subject to Forest Service royalty fee.
5. Royalty fee is due based on sales quantity and price.
6. Description and itemization of deductions (such as fees waived or previously paid as part of advance royalty payment).
7. New total royalty fee the business or organization must pay after deductions.
8. Running total amount of royalties accrued in that fiscal year; and
9. Typed name and signature of the business or organizational employee certifying the truth of the report.

Data gathered in this information collection is not available from other sources.

Estimate of Annual Burden: 1 hour.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 21.

Estimated Annual Number of Responses per Respondents: 4.

Estimated Total Annual Burden on Respondents: 20 hours.

Comment is Invited:

Comment is invited on (1) whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for Office of Management and Budget approval.

Lisa Northrop,

Associate Deputy Chief State, Private, and Tribal Forestry, National Forest System.

[FR Doc. 2026–06166 Filed 3–30–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Infrastructure Investment and Jobs Act Financial Assistance to Facilities That Purchase and Process Byproducts for Ecosystem Restoration (ALN 10.725) Wood Products Infrastructure Assistance (WPIA)

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service (Agency) is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, *Infrastructure Investment and Jobs Act Financial Assistance to Facilities that Purchase and Process Byproducts for Ecosystem Restoration (ALN 10.725) Wood Products Infrastructure Assistance (WPIA).*

DATES: Comments must be received in writing on or before June 1, 2026 to be assured of consideration.

ADDRESSES: Comments concerning this notice should be addressed to Jeff High, USDA Forest Service, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71901. Comments also may be submitted by email to *Jeffrey.c.high@usda.gov.*

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available for public viewing. Please note that comments containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may request that an electronic copy of the supporting documents for the information collection and/or any comments received be sent via return email. Requests should be emailed to *jeffrey.c.high@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff High, USDA Forest Service, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71901, 501–802–7412, *jeffrey.c.high@usda.gov.* Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service then provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Title: Infrastructure Investment and Jobs Act Financial Assistance to Facilities that Purchase and Process Byproducts for Ecosystem Restoration (ALN 10.725) Wood Products Infrastructure Assistance (WPIA).

OMB Number: 0596–0254.

Expiration Date of Approval: October 31, 2026.

Type of Review: Extension with no Revision of a currently approved information collection.

Abstract: The grants and agreements awarded under this announcement will support the Infrastructure Investment and Jobs Act (IIJA), 2021. Section 40804(b)3 directs the USDA Forest Service to provide financial assistance to an entity seeking to establish, reopen, expand, or improve a sawmill or other wood processing facility in close proximity to a unit of Federal or Indian land that has been identified as high or very high priority for ecological restoration for the purpose of reducing the cost of forest management. Eligible applicants are for-profit entities; State, local governments; Indian Tribes; school districts; community, not-for-profit organizations; institutions of higher education; and special purpose districts (*e.g.,* public utilities districts, fire districts, conservation districts, and ports). The need and process to collect information from applicants is detailed in 2 CFR part 200 and Forest Service Handbook 1509.11, Chapter 20, which prescribes administrative requirements and processes applicable to all Forest Service Domestic Federal Financial Assistance awards. Specifically, collection of information will be completed by applicants seeking financial assistance under the WPIA program using a simple form to gather required metrics that demonstrate proximity of project facility locations to Federal and Tribal lands and ties of project outcomes to ecological restoration on Federal and Tribal lands. Information collected will be reviewed by Forest Service staff to evaluate eligibility of applicants and the merits of proposals submitted. Without the information collection, determining applicant eligibility and whether proposals meet legislative requirements would be difficult or impossible, and applicant success would be diminished.

Affected Public: Individuals and Households; the Private Sector (Businesses and Non-Profit Organizations); and State, Local or Tribal Government.

Estimated Annual Burden per Response: 8.25 hours.

Estimated Annual Number of Respondents: 78.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 643.5 hours.

Comment is Invited: Comment is invited on (1) whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for Office of Management and Budget approval.

Lisa Northrop,

Associate Deputy Chief, State and Private Forestry and National Forest System.

[FR Doc. 2026–06139 Filed 3–30–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2026]

Foreign-Trade Zone (FTZ) 30, Notification of Proposed Production Activity; Stadler US Inc; (Passenger Rolling Stock); Salt Lake City, Utah

Stadler US Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Salt Lake City within Subzone 30G. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on March 25, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include: commuter and regional rail trains powered by external sources of electricity; power modules for commuter and regional rail trains powered by external sources of electricity; commuter and regional rail trains powered by battery; power modules for passenger rolling stock, powered by battery; self-propelled commuter and regional rail trains or carriages, powered by external sources of electricity; self-propelled passenger commuter and regional rail trains or carriages, powered by other energy sources; non-self-propelled commuter and regional rail carriages; undercarriages (trucks) for self-propelled commuter or regional rail passenger trains; undercarriages (trucks) for non-self-propelled commuter or regional rail passenger trains; and, passenger train car bodies (duty rate ranges from duty-free to 14%).

The proposed foreign-status materials/components include: stainless steel pipe fittings; iron mounting supports; steel mounting supports;

hollow structural aluminum frames; hollow structural aluminum profiles; solid structural aluminum profiles; solid structural aluminum frames; aluminum structures; welding equipment accessories; railway signaling equipment; high-voltage circuit breakers; low-voltage circuit breakers; electrical cabinets; control panels; electrical cabinets with touchscreens; control panels with touchscreens; electrical cabinet assemblies; harnesses for telecommunications; connector wiring for telecommunications; harnesses; connector wiring; multi-conductor cables; high-voltage electrical cables; undercarriages (trucks) for self-propelled trains; undercarriages (trucks) for non-self-propelled trains; steel wheels for truck systems; steel axles for truck systems; steel bolsters for truck systems; steel side frames for truck systems; air brakes for truck systems; hydraulic brakes for truck systems; coupling devices; air-filters; aluminum air-duct bodies; aluminum air-intake bodies; aluminum beams; aluminum blanking plugs; aluminum boxes engineered for component housing; aluminum bulkheads; aluminum bushings; aluminum cable seals; aluminum cable supports for cable management; aluminum ceiling hatches; aluminum consoles; aluminum C-profiles; aluminum crash-absorption elements; aluminum distance tubes; aluminum drip rails; aluminum electromagnetic compatibility (EMC) shields; aluminum frames; aluminum gaskets; aluminum hinges; aluminum hose sections; aluminum interior and exterior covers; aluminum mounting brackets; aluminum mounting plates; aluminum mounting profiles; aluminum paneling for cladding; aluminum passenger train car bodies; aluminum pipes for drainage and ventilation; aluminum profiles for car body assembly; aluminum protective gratings; aluminum shims; aluminum spacers; aluminum struts; aluminum threaded blocks; aluminum threaded rods; aluminum T-shot blocks; aluminum U-profiles; aluminum ventilation adapters; aluminum ventilation grids; aluminum ventilation louvers; aluminum Z-profiles; door body assemblies; door-leaf assemblies; door wing assemblies; glass lenses; glass panes; glass windows; mirrors; polymer distance tubes; polymer fire-protection bricks; polymer gaskets; polymer hose sections; polymer insulation pads; polymer paneling for cladding; rubber bushings; rubber compensators for ventilation systems; rubber gaskets; rubber sealing caps; rubber sealing collars; steel air-duct bodies; steel air-intake bodies; steel beams; steel blanking plugs; steel boxes specifically engineered for component housing; steel bulkheads; steel bushings; steel cable seal; steel cable supports for cable management; steel ceiling hatches; steel consoles; steel C-profiles; steel crash-absorption elements; steel distance tubes; steel drip rails; steel electromagnetic compatibility (EMC) shields; steel frames; steel gaskets; steel hinges; steel hose sections; steel interior and exterior covers; steel mounting brackets; steel mounting plates; steel mounting profiles; steel obstacle deflectors; steel paneling for cladding; steel passenger train car bodes; steel pipes for drainage and ventilation; steel profiles for car body assembly; steel protective gratings; steel shims; steel spacers; steel struts; steel threaded blocks; steel threaded rods; steel T-slot blocks; steel U-profiles; steel ventilation adapters; steel ventilation grids; steel ventilation louvers; and steel Z-profiles (duty rate ranges from duty-free to 6.2%).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122), section 232 of the Trade Expansion Act of 1962 (section 232), or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 122, section 232, and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign (PF) status (19 CFR 146.41). The request also indicates that aluminum extrusions are subject to an antidumping/countervailing duty (AD/CVD) order/investigation if imported from China. The Board's regulations (15 CFR 400.13(c)(2)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in PF status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 11, 2026.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Brian Warnes at *brian.warnes@trade.gov.*

Dated: March 26, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–06194 Filed 3–30–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Aviastar—TU, 5 b. 7 Leningradsky prospect g. Moskva, 125040, Moscow, Russia; Order Renewing Temporary Denial of Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (''EAR'' or ''the Regulations''),[1] I hereby grant the request of the Office of Export Enforcement (''OEE'') to renew the temporary denial order (''TDO'') issued in this matter on April 2, 2024. I find that renewal of this Order is necessary in the public interest to prevent an imminent violation of the Regulations and that renewal for an extended period is appropriate because Aviastar—TU (''Aviastar'') has engaged in a pattern of repeated, ongoing, and/or continuous apparent violations of the EAR.

I. Procedural History

On April 21, 2022, the then-Assistant Secretary of Commerce for Export Enforcement signed an Order denying Aviastar's export privileges for a period of 180 days on the ground that issuance of the Order was necessary in the public interest to prevent an imminent violation of the Regulations. The Order was issued *ex parte* pursuant to Section 766.24(a) of the Regulations and was effective upon issuance.[2] The TDO was subsequently renewed on October 17, 2022,[3] April 14, 2023,[4] October 6, 2023,[5] April 2, 2024,[6] and March 31,

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). Section 4820(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

[2] The TDO was published in the **Federal Register** on April 26, 2022 (87 FR 24514).

[3] The October 17, 2022 Renewal Order, which was effective upon issuance, was published in the **Federal Register** on October 20, 2022 (87 FR 63760).

[4] The April 14, 2023 Renewal Order, which was also effective upon issuance, was published in the **Federal Register** on April 19, 2023 (88 FR 24162).

[5] The October 6, 2023 Renewal Order, which was also effective upon issuance, was published in the **Federal Register** on October 13, 2023 (88 FR 70928).

[6] The April 2, 2024 Renewal Order, which was also effective upon issuance, was published in the **Federal Register** on April 5, 2024 (89 FR 23967). This April 2024 Renewal Order was issued for a period of one year, pursuant to an August 2023 amendment to Section 766.24(d)(1) of the EAR allowing for extended TDO renewals up to one year in cases demonstrating a pattern of repeated, ongoing and/or continuous apparent violations (88 FR 59791).

2025 [7] in accordance with section 766.24(d) of the Regulations.

On January 26, 2026, BIS, through OEE, submitted a written request for a sixth renewal of the TDO. The written request was made more than 20 days before the TDO's scheduled expiration and, given the temporary suspension of international mail service to Russia, OEE has attempted to deliver a copy of the renewal request to Aviastar by alternative means in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

II. Renewal of the TDO

A. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

If BIS believes that renewal of a denial order is necessary in the public interest to prevent an imminent violation, it may file a written request for renewal, with any modifications if appropriate. 15 CFR 766.24(d)(1). The written request, which must be filed no later than 20 days prior to the TDO's expiration, should set forth the basis for BIS's belief that renewal is necessary, including any additional or changed circumstances. *Id.* ''In cases demonstrating a pattern of repeated, ongoing and/or continuous apparent violations, BIS may request the renewal of a temporary denial order for an additional period not exceeding one year.'' [8] *Id.*

B. The TDO and BIS's Request for Renewal

Effective February 24, 2022, BIS imposed controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (''ECCN'') 9A991 (Section 746.8(a)(1) of the EAR).[9] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (''AVS'') (Section 740.15 of the EAR).[10] Any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request for renewal for a period of one year is based upon the facts underlying the issuance of the TDO and the Renewal Orders subsequently issued in this matter on October 17, 2022, April 14, 2023, October 6, 2023, April 2, 2024, and March 31, 2025 as well as other evidence developed during this investigation. This evidence demonstrates that Aviastar has continued to act in blatant disregard for U.S. export controls and the terms of previously issued TDOs. Specifically, the initial TDO, issued on April 21, 2022, was based on evidence that Aviastar engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991.b on flights into Russia after March 2, 2022, from destinations including, but not limited to, Hangzhou, China; Shenzhen, China; and Zhengzhou, China from/to Novosibirsk, Russia and Abakan, Russia, without the required BIS authorization.[11] Further evidence indicated that Aviastar also operated aircraft subject to the EAR on domestic flights within Russia, potentially in violation of Section 736.2(b)(10) of the Regulations.

As discussed in the prior renewal orders, BIS presented evidence indicating that, after the initial April 21, 2022 TDO issued, Aviastar continued to operate aircraft subject to the EAR and classified under ECCN 9A991.b on flights both into and within Russia, in violation of the Regulations and the TDO itself.[12] The October 17, 2022 Order identified flights into and out of Russia from/to Hangzhou, China and Zhengzhou, China.[13] The April 14, 2023 and October 6, 2023 Orders identified domestic flights within Russia.[14] The April 2, 2024 Order identified flights from Hangzhou, China to Russia and domestic flights within Russia.[15] The March 31, 2025 Order identified flights from Mumbai, India to Russia as well as flights within Russia.[16]

Since March 2025, Aviastar continues to engage in conduct prohibited by the TDO and Regulations. In its January 26, 2026 request for TDO renewal, BIS submitted evidence that Aviastar continues to operate aircraft subject to the EAR and classified under ECCN 9A991.b, both on flights into and within Russia, in violation of the March 31, 2025 Renewal Order and/or the Regulations. Specifically, BIS's evidence and related investigation demonstrates that Aviastar continues to operate aircraft subject to the EAR domestically within Russia. Information about those

[7] The March 31, 2025 Renewal Order, which was effective upon issuance, was published in the **Federal Register** on April 4, 2025 (90 FR 14780).

[8] 88 FR 59791 (Aug. 30, 2023).

[9] 87 FR 12226 (Mar. 3, 2022).

[10] 87 FR 13048 (Mar. 8, 2022).

[11] Publicly available flight tracking information shows that on April 10, 2022, serial number (SN) 27054 flew from Hangzhou, China to Novosibirsk, Russia, and on April 12, 2022, SN 27054 flew from Zhengzhou, China to Abakan, Russia. In addition, on April 12, 2022, SN 27053 flew from Shenzhen, China to Abakan, Russia.

[12] Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

[13] Publicly available flight tracking information shows that on May 22, 2022, SN 27054 flew from Zhengzhou, China to Novosibirsk, Russia, and on May 25, 2022, SN 27053 flew from Hangzhou, China to Novosibirsk, Russia. In addition, on September 22, 2022, SN 25731 flew from Irkutsk, Russia to Moscow, Russia.

[14] Publicly available flight tracking information shows that on February 24, 2023, SN 27053 flew from Novosibirsk, Russia to Mirny, Russia. On March 7, 2023, SN 25696 flew from Novosibirsk, Russia to Moscow, Russia. On September 26, 2023 SN 25731 flew from Ulan-Ude, Russia to Moscow, Russia. In addition, on SN 27054 flew form Norilsk, Russia to Moscow, Russia.

[15] Publicly available flight tracking information shows that on February 12, 2024, SN 25696 flew from Nizhnevartovsk, Russia to Yakutsk, Russia and, on March 3, 2024, flew from Hangzhou, China to Novosibirsk, Russia. In addition, on March 6, 2024, SN 27053 flew from Novosibrisk, Russia to Moscow, Russia and, on March 18, 2024, flew from Norilsk, Russia to Moscow, Russia.

[16] Publicly available flight tracking information shows that on August 16, 2024, SN 25696 flew from Mumbai, India to Irkutsk, Russia and on January 25, 2025, flew from Norilsk, Russia to Moscow, Russia. Additionally, on February 4, 2025, SN 25731 flew from Norilsk, Russia to Moscow, Russia and on March 13, 2025, flew from Novosibirsk, Russia to Mirny, Russia.

flights includes, but is not limited to, the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
RA–73356	27056	757–223 (PCF) (B752)	Moscow, RU/Krasnoyarsk, RU	February 8, 2026.
RA–73356	27056	757–223 (PCF) (B752)	Ulan-Ud, RU/Moscow, RU	January 23, 2026.
RA–73356	27056	757–223 (PCF) (B752)	Moscow, RU/Krasnoyarsk, RU	January 17, 2026.
RA–73356	27056	757–223 (PCF) (B752)	Pevek, RU/Moscow, RU	January 15, 2026.
RA–73354	27053	757–223 (PCF) (B752)	Krasnoyarsk, RU/Moscow, RU	February 6, 2026.
RA–73354	27053	757–223 (PCF) (B752)	Mirny, RU/Moscow, RU	January 15, 2026.
RA–73354	27053	757–223 (PCF) (B752)	Moscow, RU/Mirny, RU	January 14, 2026.
RA–73354	27053	757–223 (PCF) (B752)	Nizhnevartovsk, RU/Moscow, RU	January 10, 2026.
RA–73354	27053	757–223 (PCF) (B752)	Norilsk, RU/Moscow, RU	January 4, 2026.
RA–73352	25731	757–223 (PCF) (B752)	Novosibirsk, RU/Moscow, RU	February 7, 2026.
RA–73352	25731	757–223 (PCF) (B752)	Moscow, RU/Norilsk, RU	January 14, 2026.
RA–73352	25731	757–223 (PCF) (B752)	Anadyr, RU/Moscow, RU	January 13, 2026.
RA–73352	25731	757–223 (PCF) (B752)	Moscow, RU/Krasnoyarsk, RU	January 12, 2026.
RA–73352	25731	757–223 (PCF) (B752)	Yamburg, Russia/Moscow, RU	January 11, 2026.

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Aviastar has acted in violation of the Regulations and the TDO; that such violations have been significant and deliberate; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Moreover, I find that renewal for an extended period is appropriate because Aviastar has engaged in a pattern of repeated, ongoing, and/or continuous apparent violations of the EAR. Therefore, renewal of the TDO for one year is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Aviastar, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

IV. Order

It is therefore ordered:

First, Aviastar—TU, 5 b. 7 Leningradsky prospekt, g. Moskva, 125040, Moscow, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Aviastar any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Aviastar of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Aviastar acquires or attempts to acquire such ownership, possession, or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Aviastar of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Aviastar in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed, or controlled by Aviastar, or service any item, of whatever origin, that is owned, possessed, or controlled by Aviastar if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Aviastar by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Aviastar may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South

Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Aviastar as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Aviastar, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for one year.

David A. Peters,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2026–06161 Filed 3–30–26; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The U.S. Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with February anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable March 31, 2026.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with February anniversary dates. All deadlines for the submission of various types of information, certifications, comments, or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Respondent Selection

In the event that Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based either on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review (POR) or questionnaires in which we request the quantity and value (Q&V) of sales, shipments, or exports during the POR. Where Commerce selects respondents based on CBP data, we intend to place the CBP data on the record within five days of publication of the initiation notice. Where Commerce selects respondents based on Q&V data, Commerce intends to place the Q&V questionnaire on the record of the review within five days of publication of the initiation notice. In either case, we intend to make our respondent selection decision within 35 days of the **Federal Register** publication of the initiation notice. Comments regarding the CBP data (and/or Q&V data (where applicable)) and respondent selection should be submitted within seven days after the placement of the CBP data/submission of the Q&V data on the record of the review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event that Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of the review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of the AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to the review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to: (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Q&V questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of the proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Notice of No Sales

With respect to AD administrative reviews, we intend to rescind the review where there are no suspended entries for a company or entity under review and/or where there are no suspended entries under the company-specific case number for that company or entity. Where there may be suspended entries, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the POR, it may notify Commerce of this fact within 30 days of publication of this initiation notice in the **Federal Register** for Commerce to consider how to treat suspended entries under that producer's or exporter's company-specific case number.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e)

of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single AD deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. In addition, all firms that wish to qualify for separate rate status in the administrative reviews of AD orders in which a Q&V questionnaire is issued must complete, as appropriate, either a Separate Rate Application or Certification, and respond to the Q&V questionnaire.

For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 14 calendar days after publication of this **Federal Register** notice. In addition to filing a Separate Rate Certification with Commerce no later than 14 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 14 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Certification Eligibility

Commerce may establish a certification process for companies whose exports to the United States could contain both subject and non-subject merchandise. Companies under review that were deemed to not be eligible to participate in the certification program of that proceeding may submit a Certification Eligibility Application to establish that they maintain the necessary systems to track their sales to the United States of subject and non-subject goods.

All firms listed below that are not currently eligible to certify but wish to establish certification eligibility are required to submit a Certification Eligibility Application. The Certification Eligibility Application will be available on Commerce's website at *https://access.trade.gov/Resources/Certification-Eligibility-Application.pdf.*

Certification Eligibility Applications must be filed according to Commerce's regulations and are due to Commerce no later than 30 calendar days after the publication of the **Federal Register** notice.

Exporters and producers that are not currently eligible to certify, who submit a Certification Eligibility Application, and are subsequently selected as

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

mandatory respondents must respond to all parts of the questionnaire as mandatory respondents for Commerce to consider their Certification Eligibility Application.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than February 28, 2027.

	Period to be reviewed
AD Proceedings	
EGYPT: Prestressed Concrete Steel Wire Strand, A–729–804	2/1/25–1/31/26
Elsewedy Steel Products S.A.E.	
INDIA: Certain Frozen Warmwater Shrimp, A–533–840	2/1/25–1/31/26
Aachi Masala Foods (P) Ltd.	
Aadhya Sea Foods Private Limited	
Aarshi Overseas Private Ltd.	
Abad Fisheries; Abad Fisheries Pvt. Ltd.	
Abad Overseas Private Limited	
ABM Marine Products	
Accelerated Freeze Drying Co., Ltd.; Accelerated Freeze-Drying Co.	
ADF Foods Ltd.	
Adivishnu Marine Foods Private Limited	
Aerath Business Corp.	
AJS Enterprises LLP	
Akshay Food Impex Private Limited	
Alashore Marine Exports (P) Ltd.	
Albys Agro Private Limited	
Al-Hassan Overseas Private Limited	
Allana Frozen Foods Pvt. Ltd.	
Allanasons Ltd.	
Alpha Marine; Alpha Marine Limited	
Alps Ice & Cold Storage Private Limited	
Amaravathi Aqua Exports Private Ltd.	
Amarsagar Seafoods Private Limited	
Amulya Sea Foods; Amulya Seafoods	
Ananda Aqua Applications; Ananda Aqua Exports (P) Limited; Ananda Foods	
Ananda Enterprises (India) Private Limited	
Anantha Seafoods Private Limited	
Andaman Sea Foods Pvt. Ltd.	
Anjaneya Sea Foods	
Apar Industries Limited	
Aparna Marine Exports	
Apex Frozen Foods Limited	
Aquamarine Food Products Ltd.	
Aquastar Marine Exports	
Aquatech Feed & Seafoods Pvt Ltd	
Aquatica Frozen Foods Global Pvt. Ltd.	
Ariba Foods Pvt. Ltd.	
Arya Sea Foods Private Limited	
Asvini Agro Exports	
Asvini Exports	
Asvini Fisheries Ltd.; Asvini Fisheries Private Ltd.	
Aswin Associates	
Atlas Fisheries Private Limited	
Avanti Frozen Foods Private Limited [4]	
Avla Nettos Exports	
Ayshwarya Sea Food Private Limited; Ayshwarya Seafood Private Limited	
B R Traders	
Baby Marine Eastern Exports	
Baby Marine Exports	
Baby Marine International	
Baby Marine Sarass	
Baby Marine Ventures	
Bafna Enterprises	
Bakemill Foods	
Balasore Marine Exports Private Limited	
Baraka Overseas Traders	
Basu International	
BB Estates & Exports Private Limited	
Bell Foods (Marine Division); Bell Exim Private Limited	
Bergwerff Organic India Pvt. Ltd.	
Bhatsons Aquatic Products	
Bhavani Seafoods	
Bhimraj Exports Private Limited	
Bijaya Marine Products	
Birendrashok Seafoods Private Limited	

	Period to be reviewed
Blue Park Seafoods Private Limited; Blue Park Sea Foods Pvt. Ltd.; Bluepark Seafoods Pvt. Ltd.	
Blue Sea Resources Private Limited	
Blue Water Foods & Exports P. Ltd.	
Blue-Fin Frozen Foods Pvt. Ltd.; Blue-Fin Frozen Foods Private Limited	
Bluetide Eservices Pvt., Ltd.	
BMR Exports; BMR Exports Private Limited	
BMR Industries Private Limited	
B-One Business House Pvt. Ltd.	
BRC Marine Products	
Britannia Industries Limited	
Britto Seafoods Exp. Pvt. Ltd.; Britto Exports; Britto Exports Pvt. Ltd.	
C Private Limited	
C P Aquaculture (India) Ltd; C.P. Aquaculture (India) Pvt. Ltd.	
Calcutta Seafoods Pvt. Ltd.; Bay Seafood Pvt. Ltd.; Elque Ventures Private Limited [5]	
Canaan Marine Products	
CAP Seafoods Private Limited	
Capital Foods Private Limited	
Capithan Exporting Co.	
Cargomar Private Limited	
Castlerock Fisheries Ltd.	
Chakri Fisheries Private Limited	
Charoen Pokphand Group Co., Ltd.	
Chemmeens (Regd)	
Cherukattu Industries (Marine Div); Cherukattu Industries	
Choice Canning Company	
Choice Trading Corporation Pvt. Ltd.	
Coastal Aqua Private Limited	
Coastal Corporation Ltd.	
Cochin Frozen Food Exports Pvt. Ltd.	
Cofoods Processors Private Limited	
Contai Marine Fish Export Private Limited	
Continental Fisheries India Private Limited	
Coreline Exports	
Corlim Marine Exports Pvt. Ltd.	
Costar Overseas Private Limited	
Costar Processor	
CPF India Private Ltd.	
Crystal Sea Foods Private Limited	
Crystalnova Foods Pvt., Ltd.	
Danica Aqua Exp. Private Ltd.	
Datla Sea Foods	
Deepak Nexgen Foods And Feeds Private Limited	
Deepmala Marine Exports	
Delsea Exports Pvt. Ltd.	
Desai Foods Private Ltd.	
Devi Fisheries Limited; Satya Seafoods Private Limited; Usha Seafoods; Devi Aquatech Private Limited	
Devi Sea Foods Limited [6]	
Edhayam Frozen Foods Pvt. Ltd.; Kadalkanny Frozen Foods; Theva & Company; Diamond Seafoods Exports	
Digha Seafood Exports Pvt. Ltd.	
DN Sea Shells Private Limited	
DSF Aquatech Private Limited	
Dwaraka Sea Foods	
Eden Garden Exports	
Ega Trade Center No. 809	
Empire Industries Limited	
Entel Food Products Private Limited	
Esmario Export Enterprises	
Everblue Sea Foods Private Limited	
Fair Exp. (India) Pvt., Ltd.	
Falcon Marine Exports Limited; KR Enterprises	
Febin Marine Foods Private Limited; Febin Marine Foods	
Fedora Sea Foods Private Limited	
Five Star Marine Exports Private Limited	
Food Products Pvt., Ltd.; Parayil Food Products Pvt., Ltd.	
Forstar Frozen Foods Private Limited	
Fouress Food Products Private Limited	
Frontline Exports Pvt. Ltd.	
G A Randerian Ltd.; G A Randerian (P) Limited	
Gadre Marine Exports Pvt. Ltd.; Gadre Marine Exports	
Galaxy Maritech Exports P. Ltd.	
Gaurav International	
Geo Aquatic Products (P) Ltd.	
Geo Seafoods	
Ghan Marine Products	

	Period to be reviewed
GKS Business Associates Private Limited	
Global Gourmet Private Limited	
Glossy Impex Private Limited	
Goana Foods	
Goana Foods Prop. Cyd Paes	
Godavari Mega Aqua Food Park Private Limited	
Gokul Overseas Ltd.	
Grand Marine Foods	
Grandtrust Overseas (P) Ltd.	
Green Asia Impex Private Limited	
Growel Processors Private Limited	
GVR Exports Pvt. Ltd.	
Hari Marine Private Limited	
Haripriya Marine Exports Pvt. Ltd.	
Heiploeg Seafood India Pvt., Ltd.	
HIC ABF Special Foods Pvt. Ltd.	
High Care Marine Foods Exports Private Limited	
Highland Agro Food Private Limited	
Hiravati Exports Pvt. Ltd.	
Hiravati International Pvt. Ltd.	
Hiravati Marine Products Private Limited	
HMG Industries Ltd.	
HN Indigos Private Ltd.	
HT Foods Private Limited	
Hyson Exports Private Limited	
Hyson Logistics and Marine Exports Private Limited	
IFB Agro Industries Limited	
India Gills	
Indian Aquatic Products	
Indo Aquatics	
Indo Fisheries	
Indo French Shellfish Company Private Limited	
Innovative Foods Limited	
International Freezfish Exports	
Intl Exporters Foodparks Private Ltd.	
ITC Ltd.	
Jagadeesh Marine Exports	
Jana Brothers Sea Food LLP	
Jaya Lakshmi Sea Foods Pvt. Ltd.	
JCC Marine Exports	
Jeelani Marine Products	
Jigar Enterprises	
Jinny Marine Traders	
Joecons Marine Exp. Pvt., Ltd.	
Jude Foods India Private Limited	
K R Sea Foods Private Limited	
K.V. Marine Exports; K V Marine Exports	
Kader Exports Private Limited [7]	
Kalyan Aqua & Marine Exp. India Pvt. Ltd.; Kalyan Aqua & Marine Exp. India Pvt. Ltd.	
Kanu Krishna Corporation	
Karam Chand Thapar & Bros. Ltd.	
Karunya Marine Exports Private Limited	
Kaushalya Aqua Marine Product Exports Pvt. Ltd.	
Kay Kay Exports; Kay Kay Foods	
Kiefer Sea Foods	
Kings Infra Ventures Limited	
Kings Marine Products	
KNC Agro Limited; KNC AGRO PVT. LTD.	
Kohinoor Foods Limited	
Koluthara Exports Ltd.	
Kumars Foods	
Kyobashi Premier Freeze Dry Private Ltd.	
Latecoere India Private Ltd.	
Libran Foods	
Lito Marine Exports Private Limited	
LNSK Greenhouse Agro Products LLP	
M.J. Sea Foods Private Limited	
Magnum Export; Magnum Exports Pvt. Ltd.	
Magnum Sea Foods Limited; Magnum Estates Limited; Magnum Estates Private; Magnum Estates Private Limited	
Mangala Marine Exim India Pvt. Ltd.	
Mangala Sea Products	
Mangala Seafoods; Mangala Sea Foods	
Manjilas Food Tech Private Ltd.	

	Period to be reviewed
Maria Aquacon Private Limited	
Marine Harvest India	
Maritime Aqua Exportz	
Megaa Moda Pvt. Ltd.	
Meghmani Industries Ltd.	
Mekworld Marines and Exports Private Limited	
Milesh Marine Exports Private Limited	
Milsha Agro Exports Pvt. Ltd.	
Milsha Sea Products	
Minaxi Fisheries Private Limited	
Mindhola Foods LLP	
Minh Phu Group	
MMC Exports Limited	
Monsun Foods Pvt. Ltd.	
Mourya Aquex Pvt. Ltd.	
MTR Foods	
Munnangi Seafoods (Pvt) Ltd.	
N.K. Marine Exports LLP	
Naga Hanuman Fish Packers	
Naik Frozen Foods Private Limited; Naik Frozen Foods	
Naik Oceanic Exports Pvt. Ltd.; Rafiq Naik Exports Pvt. Ltd.	
Naik Seafoods Ltd.	
Nanak Nutritions Food (Taloja) Pvt., Ltd.	
Naq Foods India Private Limited	
Nas Fisheries Pvt. Ltd.	
Nector Exp. Pvt., Ltd.	
Neeli Aqua Private Limited	
Nekkanti Mega Food Park Private Limited	
Nekkanti Sea Foods Limited	
New Faizan Foods	
Nezami Rekha Sea Foods Private Limited; Nezami Rekha Sea Food Private Limited	
Nila Sea Foods Exports; Nila Sea Foods Pvt. Ltd.	
Nilamel Exp.	
Nine Up Frozen Foods	
NNK Marine Exports Pvt Ltd.	
Nutrient Marine Foods Limited	
Oceanic Edibles International Limited	
Orchid Marine Exports Private Limited	
Oriental Export Corporation	
Orkla India Limited (MTR Division)	
Paragon Sea Foods Pvt. Ltd.	
Paramount Seafoods	
Pasupati Aquatics Private Limited	
Penver Products Pvt. Ltd.; Penver Products (P) Ltd.	
Pesca Marine Products Pvt., Ltd.	
Phillips Foods India Pvt. Ltd.	
Pijikay International Exports P Ltd.	
Pohoomal Kewalram Sons Exports Pvt Ltd.	
Poyilakada Fisheries Private Limited	
Pravesh Seafood Private Limited	
Premas Enterprises Private Ltd.	
Premier Exports International	
Premier Marine Foods	
Premier Seafoods Exim (P) Ltd.	
Pridel Pvt., Ltd.	
Protech Organo Foods Private Limited	
R V R Marine Products Private Limited; RVR Marine Products Private Limited	
R.K. Industries IV	
Raju Exports	
Rajyalakshmi Marine Exports	
Ram's Assorted Cold Storage Ltd.	
Raunaq Ice & Cold Storage	
Razban Seafoods Ltd.	
RDR Exports	
Relish Custom Foods	
RF Exports Private Limited	
Rising Tide	
Riyarchita Agro Farming Private Limited	
Rizwan Ice & Cold Storage Partnership Firm Pvt Ltd.	
Ronisha Exp.	
Royal Exports	
Royal Imports and Exports	
Royale Marine Impex Pvt. Ltd.	
Royalux Exports Private Limited	

	Period to be reviewed
RSA Marines; Royal Oceans	
Rupsha Fish Private Limited	
Ruthi Imp. & Exp.	
S Chanchala Combines	
S.A. Exports; SA Exports	
S.H. Marine Exim	
Safa Global Imp. & Exp.	
Safera Food International	
Sagar Grandhi Exports Pvt. Ltd.	
Sagar Marine Imp. & Exp.	
Sagar Samrat Seafoods	
Sahada Exports	
Sai Aquatechs Private Limited	
Sai Marine Exports Pvt. Ltd.	
Sai Sea Foods; Sai Seafoods	
Salet Seafoods Pvt. Ltd.	
Sam Aqua Exports LLP	
Samaki Exports Private Limited	
Sanchita Frozen Foods	
Sanchita Marine Products Private Limited; Sanchita Marine Products P Ltd.	
Sandhya Aqua Exports Pvt. Ltd.	
Sandhya Marines Limited	
Sandy Bay Seafoods India Private Limited	
Sarveshwari Exports Private Limited	
Sas Exports	
Sassoondock Matsyodyog Sahakari Society Ltd.	
Satish Marine Exim Private Limited	
Sea Doris Marine Exports	
Sea Foods Private Limited	
Seaeyes Stem Limited	
Seagold Overseas Pvt. Ltd.	
Sealands	
Seasaga Enterprises Private Limited; Seasaga Group; Elimar Frozen Food	
Seema Enterprises	
Sharat Industries Ltd.	
Sheseema Exp.	
Shimpo Exports Private Limited	
Shimpo Seafoods Private Limited	
Shiva Frozen Food Exp. Pvt. Ltd.	
Shree Datt Aquaculture Farms Pvt. Ltd.	
Shree Ram Agro Industries	
Shree Ulka Llp	
Shroff Processed Food & Cold Storage P Ltd.	
Sigma Seafoods	
Silver Seafood	
Sita Marine Exports	
SKML Exim Private Limited	
SMD Rays	
Snow World Marine Exports Private Limited	
Sonia Fisheries	
Sonia Marine Exports Private Limited	
Southern Tropical Foods Pvt. Ltd.	
Sprint Exports Pvt. Ltd.	
Sreeragam Export Private Limited	
Sresta Natural Bioproducts Pvt., Ltd.	
Sri Ayyanar Exp.	
Sri Sai Marine Exp.	
Sri Sakkthi Cold Storage	
Srikanth International Private Limited	
SSF Ltd.	
St. Peter and Paul Sea Food Exports Private Limited	
Star Agro Marine Exports Private Limited	
Star Organic Foods Private Limited	
Stellar Marine Foods Private Limited	
Sterling Foods	
Subu Sea Foods	
Summit Marine Exports Private Limited	
Sun Agro Exim	
Sunrise Aqua Food Exports	
Sunrise Seafoods India Private Limited	
Supran Exim Private Limited	
Suryamitra Exim Pvt. Ltd.	
Suvarna Rekha Exports Private Limited	
Suvarna Rekha Marines P Ltd.	

	Period to be reviewed
Swadam Exp. (Opc) Pvt., Ltd.	
TBR Exports Pvt. Ltd.	
Teekay Marines Private Limited; Teekay Marine P. Ltd.	
Tej Aqua Feeds Private Limited	
The Waterbase Ltd.	
Torry Harris Seafoods Ltd.	
TRDP Happy World Private Limited	
Triveni Fisheries P Ltd.	
U & Company Marine Exports	
Ulka Seafoods (P) LTD; Ulka Sea Foods Private Limited	
Uniloids Biosciences Private Limited	
Uniroyal Marine Exports Ltd.	
Unitriveni Overseas Private Limited; Unitriveni Overseas	
Upasana Exports	
Ushodaya Enterprises Private Ltd.	
V V Marine Products	
Vaibhav Global Ltd.	
Vaisakhi Bio-Marine Pvt. Ltd.	
Varma Marine Private Limited	
Vasai Frozen Food Co.	
Vasista Marine	
Vasista Marine Private Limited	
Veerabhadra Exports Private Limited	
Veronica Marine Exports Private Limited	
Victoria Marine & Agro Exports Ltd.	
Vinner Marine	
Vitality Aquaculture Pvt. Ltd.	
Vivek Agro Products	
VKM Foods Private Limited	
VRC Marine Foods LLP	
Wellcome Fisheries Limited	
West Coast Fine Foods (India) Private Limited	
West Coast Foods Private Limited	
West Coast Frozen Foods Private Limited	
Z A Sea Foods Pvt. Ltd.; Z.A. Sea Foods Pvt. Ltd.	
Zeal Aqua Limited	
INDIA: Sodium Nitrite, A–533–906	2/1/25–1/31/26
Buradon Inc.	
Deepak Nitrite Limited	
Kronox Lab Sciences Pvt Ltd.	
Kutch Chemical Industries Ltd.	
INDIA: Stainless Steel Bar, A–533–810	2/1/25–1/31/26
Aamor Inox Limited	
Atlas Stainless Corporation Private Limited; Hindustan Inox; Precision Metals; Sieves Manufacturers (India) Pvt. Ltd.; VENUS WIRE INDUSTRIES PVT. LTD.; Atlas Stainless Corporation Private Limited; Astrabright LLP.; Bahubali Steel Industries; Eurostahl Tech LLP; Venus Metal Corporation; Astrabite LLP	
Ambica Steels Limited	
Bhansali Bright Bars Pvt. Ltd.	
Chandan Steel Limited	
Jyoti Steel Industries	
Mangalam Alloys Limited	
Manglam Worldwide Limited	
Laxcon Steels Limited; Ocean Steels Private Limited; Metlax International Private Limited; Parvati Private Limited; and Mega Steels Private Limited	
Welspun Specialty Solutions Limited	
ITALY: Stainless Steel Butt-Weld Pipe Fittings, A–475–828	2/1/25–1/31/26
Allied International S.r.l.	
Filmag Italia, SpA	
Raccordi Forgiati S.r.l.	
Tectubi Raccordi S.p.A	
MALAYSIA: Stainless Steel Butt-Weld Pipe Fittings, A–557–809	2/1/25–1/31/26
New Courage Global Limited	
Pantech Stainless & Alloy Industries Sdn. Bhd.	
MEXICO: Large Residential Washers, A–201–842	2/1/25—1/31/26
LG Electronics Reynosa, S.A. de C.V.	
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, A–580–836	2/1/25–1/31/26
Boxco, Inc.	
DK Corporation	
Dongkuk Coated Metal Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Company	
Joongangar Co., Ltd.	
KY—Solution Co. Ltd.	
M.T. Korea	

	Period to be reviewed
Posco International Corporation	
Samsung Electronics Co., Ltd.	
SM Steel Co., Ltd.	
TBK Co., Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Frozen Warmwater Shrimp,[8] A–552–802	2/1/25–1/31/26
AFOODs	
Agrex Saigon	
Agrex Saigon Foodstuff Joint Stock Company	
Agrex Saigon Foodstuffs Joint Stock Company	
Amanda Seafood Co., Ltd.	
An Manh Food Company, Ltd.	
An Nguyen Investment Production and Group	
Anh Khoa Seafood	
Anh Minh Quan Corp.	
APT Co.	
Asia Foods Import Export Corporation	
Au Vung One Seafood	
Bac Lieu Fisheries Joint Stock Company	
Bac Lieu Fisheries Joint Stock Company—Nha Trang Branch	
Bach Mai Agricultural Products Processing One Member Co., Ltd.	
Baclieufis	
Bentre Forestry and Aquaproduct Import-Export Joint Stock Company	
Bentre Seafood Joint Stock Company	
BeseaCo	
Bien Dong Seafood Co., Ltd.	
BIM Foods Joint Stock Company	
Binh Dong Fisheries Joint Stock Company	
Binh Thuan Import-Export Joint Stock Company	
Blue Bay Seafood Co., Ltd.	
Branch of Khang An Foods Joint Stock Company—Kim An Seafood Factory	
Branch of Khang An Foods Joint Stock Company—Tam An Seafood Factory	
Branch of Sao Ta Foods Joint Stock Company—Sao Ta Seafood Enterprise.	
C.P. Vietnam Corporation	
Ca Mau Foods and Fishery Export Joint Stock Company	
Ca Mau Frozen Seafood Processing Import Export Corporation	
Ca Mau Seafood Joint Stock Company	
Ca Mau Seafood Processing	
Ca Mau Seafood Processing and Service Joint Stock Corporation	
Cadovimex	
Cadovimex II Seafood Import Export and Processing Joint Stock Company	
Cadovimex Seafood Import-Export and Processing Joint Stock Company	
Cafatex Corporation	
Cafatex Fishery Joint Stock Corporation	
CAFISH	
CAFISH Vietnam	
Camau Seafood Processing and Service Joint Stock Corporation; Camau Seafood Processing and Service Joint-Stock Corporation	
Camimex	
Camimex Corp.	
Camimex Foods Joint Stock Company	
Camimex Group	
Camimex Group Joint Stock Company[9]	
CAMIMEX JOINT STOCK COMPANY	
Can Tho Import Export Fishery	
Can Tho Import Export Fishery Limited Company	
Can Tho Import Export Seafood Joint Stock Company	
Cantho Import Export Fishery Limited Company	
CASEAMEX	
CASES	
CASES Kien Giang Branch Camau Seafood Processing & Service Joint Stock Corporation	
Chinhdat Long An Co., Ltd.	
Cholimex Food Joint Stock Company	
CJ Cau Tre Foods Joint Stock Company	
CK Frozen Foods Viet Nam Company Limited	
CK Frozen Foods Vietnam Company Limited	
Coastal Fisheries Development Corporation	
COFIDEC	
Cuulong Seapro	
Cuulong Seaproducts Company	
D And N Foods Processing (Danang) Company Ltd.	
Dai Phat Tien Seafood Co., Ltd.	
Dai Tien Vinh Company	
Dai Tien Vinh Company Ltd.	
Danang Seaproducts Import-Export Corporation	

	Period to be reviewed
Dandelion Vietnam Joint Stock	
DAT PHUONG NAM JOINT STOCK COMPANY	
Dong Hai Seafood Limited Company	
Dong Phuong Seafood Co., Ltd.	
Dong Phyong Seafood Co., Ltd.	
Duc Cuong Seafood Trading Co., Ltd.	
Duong Hung Seafood	
FAQUIMEX Bentre Seafood Joint Stock Company	
FFC	
Fimex Vietnam	
Fine Foods Company	
FISCO	
FMC	
Frozen Seafoods Factory	
Frozen Seafoods Factory No. 32	
FROZEN SEAFOODS FACTORY NO.32–THUAN PHUOC SEAFOODS AND TRADING CORPORATION	
Gallant Dachan Seafood Co., Ltd.	
Gallant Ocean (Viet Nam) JSC	
Gallant Ocean (Vietnam) Co. Ltd.	
Gallant Ocean (Vietnam) Joint Stock Company	
GN Foods Joint Stock Company	
Go Dang Joint Stock Company	
GODACO Seafood	
Golden Shrimp Seafood Joint Stock Company; Golden Shrimp Seafood JSC	
Green Farms Seafood Joint Stock Company	
Hai Tri Import Export	
Hai Viet Corporation	
Hanh An Trading Service Co., Ltd.	
HAVICO	
Hoa Doanh International Joint Stock Company	
Hoang Anh Fisheries Trading Company Limited	
Hoang Phong Seafood Co.	
Hoang Phong Seafood Co., Ltd.	
Hong Ngoc Seafood Co., Ltd.	
Hong Phat Trading Services Packing Exporting Co., Ltd.	
Hung Bang Company Limited	
Hung Dong Investment Service Trading Co., Ltd.	
HungHau Agricultural Joint Stock Company	
Huy Nam Seafoods Company Limited	
Incomfish	
Infinite Ils Co., Ltd.	
Investment Commerce Fisheries Corporation	
JK Fish Co., Ltd.	
Khang An Foods Aquatic Products Joint Stock Company	
Khang An Foods Joint Stock Company	
Khanh Hoa Seafoods Exporting Company	
Khanh Sung Co., Ltd.	
KHASPEXCO	
Kien Hung Joint Stock Company	
Kim Anh	
Kim Anh Co., Ltd	
Kim Anh Company Limited	
Kim Phat Seafood Import Export Company	
King Crab Trading Service Joint Stock Company	
Lang Tram Seafoods Processing Factory	
Lien A Co., Ltd	
Long Toan Frozen Aquatic Products	
Long Toan Frozen Aquatic Products Joint Stock Company	
Lucky Shing Company Ltd.	
MC Seafood	
Mekong Seafood Connection	
MEKSE	
Minh Anh Seafood Import Export	
Minh Anh Seafood Import Export One	
Minh Bach Seafood Company Limited	
Minh Cuong Seafood Import Export Processing Joint Stock Company	
Minh Hai Export Frozen Seafood Processing Joint-Stock Company	
Minh Hai Joint-Stock Seafood Processing Company	
Minh Hai Jostoco	
Minh Phat Seafood Company Limited [10]	
Minh Phu Hau Giang Seafood; Minh Phu Hau Giang Seafood Corporation; Minh Phu Hau Giang Seafood Processing [11]	
Minh Phu Seafood Corporation [12]	
Minh Qui Seafood Company Limited [13]	

	Period to be reviewed
My Son Frozen Seafoods Factory My Son Seafoods Factory Nam Hai Foodstuff and Export Company Ltd. Nam Phuong Foods Import Export Company Limited Nam Viet Seafood Import Export Joint Stock Company Namcan Seaproducts Import Export Joint Stock Company NAVIMEXCO New Generation Seafood Joint Stock Company New Wind Seafood Company Limited Ngoc Anh Export Import Co., Ltd. Ngoc Tri Ngoc Tri Seafood Joint Stock Company Ngoc Trinh Bac Lieu Seafood Co., Ltd. Nguyen Chi Aquatic Product Trading Company Limited Nha Trang Fisheries Co., Ltd. Nha Trang Sea Product Company NHA TRANG SEAFOODS—F.89 JOINT STOCK COMPANY Nha Trang Seafoods F.89 Joint Stock Company Nha Trang Seafoods F89 Joint Stock Company; Nha Trang Seaproduct Company; NT Seafoods Corporation; NTSF Seafoods Joint Stock Company; Nha Trang Seafoods Group [14] Nhat Duc Co., Ltd. Nigico Co., Ltd. Ocean Bridge Company Limited Ocean Gift Foods Joint Stock Company Pham Nghia Food Joint Stock Company Phillips Seafood Vietnam Company Limited Phu Thanh Co., Ltd Phuoc Thanh IV Trading Production Company Limited Phuong Nam Foodstuff Corp. Q N L Company Limited QAIMEXCO QNL CO., LTD Qnl Company Limited QNL Company Ltd. Quang Binh Co., Ltd. Quang Minh Seafood Co., Ltd. Quang Minh Seafood Limited Liability Company Quoc Ai Seafood Processing Import Export Co., Ltd. Quoc Toan PTE Quoc Toan Seafood Processing Factory Quoc Viet Seaproducts Processing Quoc Viet Seaproducts Processing Trading & Import-Export Corporation Quoc Viet Seaproducts Processing Trading and Import-Export Corporation—Factory II (Quoc Viet Corporation-Factory II) Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd. Quy Nhon Frozen Seafoods Joint Stock Company Sa Ky Foods Corporation Safe and Fresh Aquatic Products Joint Stock Company Sai Thanh Foods Saigon Aquatic Product Trading Joint Stock Company Saigon Food Joint Stock Company Sao Ta Foods Joint Stock Company Sao Ta Foods Joint-Stock Company Sao Ta Seafood Factory/FIMEX VN [15] Saota Seafood Factory Savvy Seafood Vietnam Co., Ltd. Sea Minh Hai SEADANANG Seafood Direct 2012 One Member Limited Seafood Direct 2012 One Member Limited Liability Company Seafood Joint Stock Company No. 4 Seafood Travel Construction Import Export Joint Stock Company Seafoods and Foodstuff Factory Seafoods And Foodstuff Factory Tho Quang SEAFOODS AND FOODSTUFF FACTORY—THUAN PHUOC SEAFOODS AND TRADING CORPORATION SEANAMICO Seaprimexco Vietnam Seaprodex Min Hai Seaprodex Minh Seaprodex Minh Hai Seaprodex Minh Hai Factory No. 69 Seaprodex Minh Hai Workshop 1 Seaprodex Minh Hai-Factory No. 78 Seaproducts Joint Stock Company No. 5	

	Period to be reviewed
Seaspimex Vietnam Seavina Seavina Joint Stock Company Simmy Seafood Company Limited Soc Trang Seafood Joint Stock Company Song Tran Import & Export Co. Ltd. South Ha Tinh Seaproducts Import-Export Joint Stock Company South Vina Shrimp Joint Stock Company Southern Fresh Foods Southern Shrimp Joint Stock Company Special Aquatic Products Joint Stock Company Stapimex SVS T & P Seafood Company Limited T&T Cam Ranh Tac Van Seafoods Co. Tacvan Frozen Seafood Processing Export Company Tacvan Seafoods Co. Tacvan Seafoods Company Tai Kim Anh Seafood Joint Stock Corporation Tai Nguyen Seafood Co., Ltd. Tai Viet Corporation TAIKA Seafood Corporation Tan Dong Trade Production Co., Ltd. Tan Phong Phu Seafood Co., Ltd. Tan Thanh Loi Frozen Food Co., Ltd. Tan Thanh Loi Frozen Food Company Tay Do Seafood Enterprise THADIMEXCO Thai Hoa Foods Joint Stock Company Thai Minh Long Seafood Company Limited Thaimex Seafood Thanh Doan Fisheries Import-Export Joint Stock Company Thanh Doan Seafood Import Export Trading Joint-Stock Company The Light Seafood Company Limited Thien Phu Export Seafood Thinh Hung Co., Ltd. Thinh Phu Aquatic Product Trading Thinh Phu Aquatic Products Trading Co., Ltd. Thong Thuan Company Limited/Thong Thuan Cam Ranh Seafood Joint Stock Company [16] Thong Thuan Tra Vinh Seafood Joint Stock Company Thuan Du Private Enterprise Thuan Duc Import Export Trading Co., Ltd. Thuan Phat Seafood Company Limited Thuan Phong Phat Food Company Limited Thuan Phuoc Corp. Thuan Phuoc Seafoods and Trading Thuan Phuoc Seafoods and Trading Corporation Thuan Thien Producing Trading Co., Ltd. Thuan Thien Producing Trading Limited Company Tin An Seafood Factory Tin Thinh Co., Ltd. TPP Co. Ltd. Tra Kha Seafood Processing Factory Trading and Import-Export Co., Ltd. Trang Corporation (Vietnam) Trang Joint Stock Company Trang Khanh Seafood Co., Ltd. Trong Duc Seafood Co., Ltd Trong Nhan Seafood Co., Ltd. Trong Nhan Seafood Company Limited Trung Son Seafood Processing Joint Stock Company Truong Phu Seafoods Joint Stock Company UTXI Aquatic Products Processing Corporation Utxi Aquatic Products Processing Js UTXICO VAFCO Van Duc Food Company Limited Viet Asia Foods Company Limited Viet Foods Co., Ltd. Viet Hai Seafood Co., Ltd. Viet I-Mei Frozen Foods Co., Ltd. Viet Nam Clean Seafood Corporation Viet Phu Foods and Fish Corp.	

	Period to be reviewed
Viet Shrimp Corporation	
Vietnam Clean Seafood Corporation	
Vietnam Fish One Co., Ltd.	
Vietnam Rich Beauty Food Co., Ltd.	
VIETROSCO	
VIFAFOOD	
Vina Cleanfood	
Vinfarm Export Import Trading Company Limited	
Vinh Hoan Corp.	
Vinh Phat Food Joint Stock Company	
Western Foods Company Limited	
XNK Thinh Phat Processing Company	
SOUTH AFRICA: Lemon Juice, A–791–827	2/1/25–1/31/26
Granor Passi (Pty) Ltd	
Magalies Citrus Company (Pty) Ltd	
TAIWAN: Crystalline Silicon Photovoltaic Products, A–583–853	2/1/25–1/31/26
EEPV Corp.	
THAILAND: Certain Frozen Warmwater Shrimp, A–549–822	2/1/25–1/31/26
A. Wattanachai Frozen Products Co., Ltd.	
A.P. Frozen Foods Co., Ltd.	
A.S. Intermarine Foods Co., Ltd.	
ACU Transport Co., Ltd.	
Aeronaut Co., Ltd.	
Ampai Frozen Food Co., Ltd.	
Andaman Seafood Co., Ltd.	
Anglo-Siam Seafoods Co., Ltd.	
Apex Maritime (Thailand) Co., Ltd.	
Apitoon Enterprise Industry Co., Ltd.	
Applied DB Ind.; Applied DB	
Asian Alliance International Co., Ltd.	
Asian Sea Corporation Public Company Limited	
Asian Seafood Coldstorage (Sriracha)	
Asian Seafoods Coldstorage(Suratthani) Co.; Asian Seafoods Coldstorage Public Co., Ltd.	
Asian Star Trading Co., Ltd.	
Assoc. Commercial Systems	
B.S.A. Food Products Co., Ltd.	
Bangkok Dehydrated Marine Product Co., Ltd.	
C N Import Export Co., Ltd.	
C P Mdse	
C.K. Frozen Fish and Food Co., Ltd.	
C.P. Intertrade Co. Ltd.	
Calsonic Kansei (Thailand) Co. Ltd.	
Ceazar Millenium Co., Ltd.	
Century Industries Co., Ltd.	
Chainwatch Company Limited	
Chaivaree Marine Products Co., Ltd.	
Chaiwarut Co., Ltd.; Chaiwarut Company Limited; Tey Seng Cold Storage Co., Ltd.[17]	
Chanthaburi Frozen Food Co., Ltd.[18]	
Chanthaburi Seafoods Co., Ltd.[19]	
Chaotalay Limited Partnership	
Charoen Pokphand Petrochemical Co., Ltd.	
Chocksamut Marine	
Chonburi LC	
Chue Eie Mong Eak; Chue Eie Momg Eak Ltd. Part.	
Combine Thai Foods Co., Ltd.	
Commonwealth Trading Co., Ltd.	
Consol Link Co., Ltd.	
Core Seafood Processing Co., Ltd.	
CP Merchandising Co., Ltd.; Charoen Pokphand Foods Public Co., Ltd.[20]	
CP Retailing and Marketing Co., Ltd.	
CPF Food Network Co., Ltd.	
CPF Food Products Co., Ltd.	
Crystal Frozen Foods Co., Ltd.	
Crystal Seafood	
CY Frozen Food Co., Ltd.; C Y Frozen Food Co., Ltd.	
Daedong (Thailand) Co., Ltd.	
Daiei Taigen (Thailand) Co., Ltd.	
Daiho (Thailand) Co., Ltd.	
Denchai Seafood	
Dynamic Intertransport Co., Ltd.	
Earth Food Manufacturing Co., Ltd.	
F.A.I.T. Corporation Limited	
Far East Cold Storage Co., Ltd.	
Findus (Thailand) Ltd.	

	Period to be reviewed
Finex Vn	
Fortune Frozen Foods (Thailand) Co., Ltd.	
Frozen Marine Products Co., Ltd.	
Gallant Ocean (Thailand) Co., Ltd.	
Gallant Seafoods Corporation	
Global Maharaja Co., Ltd.	
Golden Sea Frozen Foods Co. Ltd.	
Golden Seafood International Co., Ltd.	
Golden Thai Imp. & Exp. Co., Ltd.	
Good Fortune Cold Storage Co., Ltd.; Good Fortune Cold Storage Ltd.	
Good Luck Product Co., Ltd.	
Grobest Frozen Foods Co., Ltd.	
Gulf Coast Crab Intl.	
H.A.M. International Co., Ltd.	
Haitai Seafood Co., Ltd.	
Handy International (Thailand) Co., Ltd.	
Heng Seafood Limited Partnership	
Heritrade Co., Ltd.; Heritrade	
HIC (Thailand) Co., Ltd.	
High Way International Co., Ltd.	
I.T. Foods Industries Co., Ltd.	
Inter-Oceanic Resources Co., Ltd.	
Inter-Pacific Marine Products Co., Ltd.	
Intersia Foods Co., Ltd.	
Jack Hua Co., Ltd.	
K & U Enterprise Co., Ltd.	
K Fresh	
K. D. Trading Co., Ltd.	
K.L. Cold Storage Co., Ltd.	
KF Foods; KF Foods Limited; Kingfisher Holdings Ltd.[21]	
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.	
Kibun (Thailand) Co., Ltd.	
Kibun Trdg	
Kitchens of the Ocean (Thailand) Company, Ltd.; Kitchens of the Ocean (Thailand) Ltd.	
Kongphop Frozen Foods Co., Ltd.	
Kyokuyo Global Seafoods Co., Ltd.	
Lee Heng Product Food Co., Ltd.	
Lee Heng Seafood Co., Ltd.	
Leo Transports; Leo Transport Corporation Ltd.	
Li-Thai Frozen Foods Co., Ltd.	
Lucky Union Foods Co., Ltd.	
Magnate & Syndicate Co., Ltd.	
Mahachai Food Processing Co., Ltd.	
Mahachai Marine Foods Co., Ltd.	
Marine Frozen Foods Co., Ltd.	
Marine Gold Products Limited[22]	
Maruha Nichiro (Thailand) Co., Ltd.	
May Ao Foods Co., Ltd.; A Foods 1991 Co., Limited[23]	
Merit Asia Foodstuff Co., Ltd.	
Merkur Co., Ltd.	
Mild Foods Co., Ltd	
Ming Chao Ind Thailand	
N&N Foods Co., Ltd.	
N.R. Instant Produce Co., Ltd.	
Namprick Maesri Ltd. Part.; Namprik Maesri Ltd. Part.	
Narong Seafood Co., Ltd.	
Nongmon SMJ Products	
Pacific Fish Processing Co., Ltd.	
Pacific Queen Co., Ltd.	
Pakpanang Coldstorage Public Co., Ltd.	
Penta Impex Co., Ltd.	
Phatthana Frozen Food Co., Ltd.[24]	
Phatthana Seafood Co., Ltd.[25]	
Pinwood Nineteen Ninety Nine	
Piti Seafoods Co., Ltd.; Piti Seafood Co., Ltd.	
Pornchaimongkol Marine Product Co., Ltd.	
Premier Frozen Products Co., Ltd.	
Preserved Food Specialty Co., Ltd.	
Queen Marine Food Co., Ltd.	
Rayong Coldstorage (1987) Co., Ltd.	
Royal Andaman Seafood Co., Ltd.	
S&D Marine Products Co., Ltd.	
S&P Aquarium	
S&P Syndicate Public Company Ltd.	

	Period to be reviewed
S. Chaivaree Cold Storage Co., Ltd.	
S. Khonkaen Food Ind Public; S. Khonkaen Food Industry Public Co., Ltd.	
S. Ruam Thai Co., Ltd.	
S.K. Foods (Thailand) Public Co. Limited	
S2K Marine Product Co., Ltd.	
Samui Foods Company Limited	
SB Inter Food Co., Ltd.	
SCT Co., Ltd.	
Sea Bonanza Food Co., Ltd.	
Sea Nt'l Co., Ltd.	
Sea Wealth Frozen Food Co., Ltd.[26]	
Seafresh Industry Public Co., Ltd.; Seafresh Fisheries[27]	
SEAPAC	
Search and Serve	
Sea-Tech Intertrade Co., Ltd.	
Sethachon Co., Ltd.	
Shianlin Bangkok Co., Ltd.	
Shing-Fu Seaproducts Development Co. Ltd.; Shing Fu Seaproducts Development Co.	
Siam Food Supply Co., Ltd.	
Siam Haitian Frozen Food Co., Ltd.	
Siam Intersea Co., Ltd.	
Siam Marine Products Co., Ltd.	
Siam Ocean Frozen Foods Co., Ltd.	
Siam Seafoods Products Co., Ltd.	
Siam Union Frozen Foods; The Siam Union Frozen Foods Co., Ltd.	
Siamchai International Food Co., Ltd.	
Smile Heart Foods; Smile Heart Foods Co. Ltd.	
SMP Food Product Co., Ltd.; SMP Foods Products Co., Ltd.; SMP Products, Co., Ltd.; SMP Food Products Co., Ltd.	
Songkla Canning Public Co., Ltd.	
Southeast Asian Packaging and Canning Ltd.	
Southport Seafood Co., Ltd.; Southport Seafood	
Star Frozen Foods Co., Ltd.	
Starfoods Industries Co., Ltd.	
STC Foodpak Ltd.	
Suntechthai Intertrading Co., Ltd.	
Surapon Nichirei Foods Co., Ltd.	
Surapon Foods Public Co. Ltd; Surat Seafoods Public Co., Ltd.; Surapon Seafood; Surapon Seafoods Public Co. Ltd[28]	
Suratthani Marine Products Co., Ltd.	
Suree Interfoods Co., Ltd	
T.S.F. Seafood Co., Ltd.	
Tep Kinsho Foods Co., Ltd.	
Teppitak Seafood Co., Ltd.	
Thai Agri Foods Public Co., Ltd.	
Thai Hanjin Logistics Co., Ltd.	
Thai I-Mei Frozen Foods Co., Ltd.[29]	
Thai Mahachai Seafood Products Co., Ltd.	
Thai Ocean Venture Co., Ltd.	
Thai Pak Exports Co., Ltd.	
Thai Patana Frozen Co., Ltd	
Thai Royal Frozen Food Co., Ltd.	
Thai Spring Fish Co., Ltd.	
Thai Union Group Public Co., Ltd.; Thai Union Seafood Co., Ltd.; Pakfood Public Co., Ltd.; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd.; Takzin Samut Co., Ltd.[30]	
Thai Union Manufacturing Company Limited	
Thai World Import and Export Co., Ltd.; Thai World Imports and Exports Co., Ltd.	
Thai Yoo Ltd., Part.	
Thai-Ger Marine Co.; Ongkorn Cold Storage Co., Ltd.	
The Union Frozen Products Co., Ltd.; Bright Sea Co., Ltd.[31]	
Thong Thuan Co., Ltd.	
Top Product Food Co., Ltd.	
Trang Seafood Products Public Co., Ltd.	
Transamut Food Co., Ltd.	
Tung Lieng Tradg.	
Unicord Public Co., Ltd.	
United Cold Storage Co., Ltd.	
V. Thai Food Product Co., Ltd.; V Thai Food Product	
W.K.M. International Co., Ltd.	
Wann Fisheries Co., Ltd.	
Xian-Ning Seafood Co., Ltd.	
Yeenin Frozen Foods Co., Ltd.	
ZAFCO TRDG	

	Period to be reviewed
THE PEOPLE'S REPUBLIC OF CHINA: Certain Frozen Warmwater Shrimp, A–570–893	2/1/25–1/31/26
Allied Kinpacific Food (Dalian) Co.	
Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd./Allied Pacific Food (Dalian) Co., Ltd.	
Amoy Food Ltd.	
Anhui Fuhuang Sungem Foodstuff Group Co., Ltd.	
Asian Seafoods (Zhanjiang) Co., Ltd.	
Beihai Anbang Seafood Co., Ltd.	
Beihai Boston Frozen Food Co., Ltd.	
Beihai Evergreen Aquatic Product Science and Technology Company Limited	
Beihai Tianwei Aquatic Food Co. Ltd.	
Beihai Jiujiajiu Food Co., Ltd.	
Changli Luquan Aquatic Products Co., Ltd.	
Chengda Development Co Ltd.	
Chengdu Yuanxian Food Co., Ltd.	
Chengsen Aquatic Seafoods Co., Ltd.	
Colorful Bright Trade Co., Ltd.	
Dalian Beauty Seafood Company Ltd.	
Dalian Changfeng Food Co., Ltd.	
Dalian Guofu Aquatic Products and Food Co., Ltd.	
Dalian Haiqing Food Co., Ltd.	
Dalian Hengtai Foods Co., Ltd.	
Dalian Home Sea International Trading Co., Ltd.	
Dalian Honghefeng International Trade Co., Ltd.	
Dalian Jinfuda Business And Trade C	
Dalian Philica International Trade Co., Ltd.	
Dalian Rich Enterprise Group Co., Ltd.	
Dalian Rich Foods Co., Ltd.	
Dalian Shanhai Seafood Co., Ltd.	
Dalian Sunrise Foodstuffs Co., Ltd.	
Dalian Taiyang Aquatic Products Co., Ltd.	
Dalian Zhuohong Marine Product Co., Ltd.	
Dandong Taihong Foodstuff Co., Ltd.	
Dongwei Aquatic Products (Zhangzhou) Co., Ltd.	
Fastgrow International Co., Inc.	
Ferrero Food (Hangzhou) Co., Ltd.	
Foshan Runlin Trading Co., Ltd.	
Fujian Chaohui Group	
Fujian Chaowei International Trading	
Fujian Dongshan County Shunfa Aquatic Product Co., Ltd	
Fujian Dongshan County Shunyuan Aquatic Product Co., Ltd.	
Fujian Dongshan Global Seafoods Co., Ltd.	
Fujian Dongwei Food Co., Ltd.	
Fujian Dongya Aquatic Products Co., Ltd.	
Fujian Fuding Seagull Fishing Food Co., Ltd.	
Fujian Haihun Aquatic Product Company	
Fujian Hainason Trading Co., Ltd.	
Fujian Jiafeng Agricultural Development Co., Ltd.	
Fujian Jinhang Aquatic Product Co., Ltd.	
Fujian Min Tong Wan Hai Fishery	
Fujian R & J Group Ltd.	
Fujian Rongjiang Import and Export Co., Ltd.	
Fujian Yida Foods Co., Ltd.	
Fujian Yilong Food Co., Ltd.	
Fujian Zhaoan Haili Aquatic Co., Ltd.	
Fuqing Chaohui Aquatic Food Co., Ltd.	
Fuqing Dongwei Aquatic Products Industry Co., Ltd.	
Fuqing Longhua Aquatic Food Co., Ltd	
Fuqing Minhua Trade Co., Ltd.	
Fuqing Yihua Aquatic Food Co., Ltd.	
Fuzhou Changle Weiming Trade Company	
Fuzhou Shuixi Food Inc.	
Gallant Ocean Group	
Guangdong Evergreen Aquatic Food Co., Ltd.	
Guangdong Foodstuffs Import & Export (Group) Corporation	
Guangdong Gourmet Aquatic Products Co., Ltd.	
Guangdong Jinhang Foods Co., Ltd.	
Guangdong Jinxi Dian Food Co., Ltd	
Guangdong Longze Food Co.	
Guangdong Rainbow Aquatic Development	
Guangdong Savvy Seafood Inc.	
Guangdong Shunxin Marine Fishery Group Co., Ltd.	
Guangdong Universal Aquatic Food Co. Ltd.	
Guangdong Wanshida Holding Corp.	

	Period to be reviewed
Guangdong Wanya Foods Fty. Co., Ltd. Guolian Aquatic Products Co., Ltd. HaiLi Aquatic Product Co., Ltd Hainan Brich Aquatic Products Co., Ltd. Hainan Dragon Link Trading Co., Ltd. Hainan Golden Spring Foods Co., Ltd. Hainan Qinfu Foods Co., Ltd. Xintaisheng Industry Co., Ltd. Hong Kong Sungiven International Food Huayang International Transportation Service (Dalian) Co., Ltd. Huazhou Xinhai Aquatic Products Co. Ltd. Hubei Lideyuan Agricultural Science And Technology Co., Ltd. Jiangmen Ziqiao Food Ltd. Jiangsu Asus Food Co., Ltd. Kuehne Nagel Ltd. Xiamen Branch Kyorin Industry (Shenzhen) Co., Ltd. Leizhou Bei Bu Wan Sea Products Co., Ltd. Lianyungang Ajinomoto Frozen Foods Co., Ltd. Longhai Gelin Foods Co., Ltd. Maoming Hongye Aquatic Products Co., Ltd. Maoming Xinzhou Seafood Co., Ltd. Marine Harvest International New Continent Foods Co., Ltd. Ningbo Prolar Global Co., Ltd. North Seafood Group Co. Omeca (Liaoning) Food Co., Ltd. Pacific Andes Food Ltd. Penglai Huiyang Foodstuff Co., Ltd. Penglai Yuming Foodstuff Co., Ltd. Qingdao Best Oceans Co., Ltd. Qingdao Fusheng Foodstuffs Co., Ltd. Qingdao Tanford Foods Co., Ltd. Qingdao Yihexing Foods Co., Ltd. Qingdao Yize Food Co., Ltd. Qingdao Zhixian Food Co., Ltd. Qingdao Zhongfu International Qinhuangdao Gangwan Aquatic Products Co., Ltd. Quanzhou Liangyou Food Co., Ltd. Raoping YuXiang Aquaculture Co., Ltd. Rizhao Huasheng Aquatic Foodstuff Rizhao Jia Tian Xia Foods Co., Ltd. Rizhao Kunyu Food Co. Ltd. Rizhao Meijia Aquatic Foodstuff Co., Ltd. Rizhao Meijia Keyuan Foods Co. Ltd. Rizhao Rongjin Aquatic Rizhao Rongxing Co. Ltd. Rizhao Smart Foods Company Limited Rongcheng Heyue Ocean Seafood Co., Ltd. Rongcheng Sanyue Foodstuff Co., Ltd. Rongcheng Yinhai Aquatic Product Co., Ltd. Rudong Zhengxiong Trade Co., Ltd. Ruian Huasheng Aquatic Products Rushan Chunjiangyuan Foodstuffs Co., Ltd. Rushan Hengbo Aquatic Products Co., Ltd. Rushan Huaxin Foodstuffs Co., Ltd. Savvy Seafood Inc. Sea Trade International Inc. Shandong Mingbang Food Co., Ltd. Shandong Tongxing Foodstuffs Co., Ltd. Shanghai Finigate Integrated Shanghai Zhoulian Foods Co., Ltd. Shantou Freezing Aquatic Product Foodstuffs Co. Shantou Haili Aquatic Product Co. Ltd. Shantou Haimao Foodstuff Factory Co., Ltd. Shantou Jiazhou Food Industrial Co., Ltd. Shantou Jinping Oceanstar Business Co., Ltd. Shantou Jintai Aquatic Product Industrial Co., Ltd. Shantou Longsheng Aquatic Product Foodstuff Co., Ltd. Shantou Ocean Best Seafood Corporation Shantou Red Garden Food Processing Co., Ltd./Shantou Red Garden Foodstuff Co., Ltd. Shantou Ruiyuan Industry Co., Ltd. Shantou Wanya Foods Fty. Co., Ltd. Shantou Yuexing Enterprise Company Shanwei Cathay Food Industries Limited Shaoxing City Donghai Food Co., Ltd.	

	Period to be reviewed
Shengyuan Aquatic Food Co., Ltd.	
Shenzhen Watson Trading Corp	
Sk Seafood Limited	
Suizhong Tieshan Food Co., Ltd.	
Tianjin Ding Yuelong International	
Thai Royal Frozen Food Zhanjiang Co., Ltd.	
Time Seafood (Dalian) Company Limited	
Tongwei Hainan Aquatic Products Co., Ltd.	
Weifang Anjing Aquaculture Dev. Co	
Winner Food Products Ltd.	
Wuhan Best Lucky Foods Co., Ltd.	
Xiamen Chaoyang Trade Co., Ltd.	
Xiamen East Ocean Foods Co., Ltd.	
Xiamen Golden Huanan Imp. &Exp. Xiamen Granda Import and Export Co., Ltd.	
Xiamen Lixing Imp. & Exp. Co. Ltd.	
Yangjiang Dawu Aquatic Products Co., Ltd.	
Yangjiang Guolian Seafood Co., Ltd.	
Yangjiang Haina Datong Trading Co.	
Yantai Longda Foodstuffs Co., Ltd.	
Yantai Tedfoods Co., Ltd.	
Yantai Wei-Cheng Food Co., Ltd.	
Yixing Magnolia Garment Co., Ltd.	
Zhangzhou Donghao Seafoods Co., Ltd.	
Zhangzhou Fuzhiyuan Food Co., Ltd.	
Zhangzhou Hongwei Foods Co., Ltd.	
Zhangzhou Tai Yi Import & Export Trading Co., Ltd.	
Zhangzhou Xinhui Foods Co., Ltd.	
Zhangzhou Xinwanya Aquatic Product Co., Ltd.	
Zhangzhou Yanfeng Aquatic Product & Foodstuff Co., Ltd.	
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.	
Zhanjiang Fuchang Aquatic Products Co., Ltd.	
Zhanjiang Fuchang Aquatic Products Freezing Plant	
Zhanjiang Go-Harvest Aquatic Products Co., Ltd.	
Zhanjiang Guolian Aquatic Products Co., Ltd.	
Zhanjiang Longwei Aquatic Products Industry Co., Ltd.	
Zhanjiang Regal Integrated Marine Resources Co., Ltd.	
Zhanjiang Universal Seafood Corp.	
Zhanjiang Weipinwei Aquatic Product	
Zhaoan Yangli Aquatic Co., Ltd.	
Zhejiang Evernew Seafood Co.	
Zhejiang Tianhe Aquatic Products	
Zhengxiong (Rudong) Trade Co., Ltd.	
Zhenye Aquatic (Huilong) Ltd.	
Zhoushan City Shengtai Aqu	
Zhoushan Dongyu Foods Co., Ltd.	
Zhoushan Genho Food Co., Ltd.	
Zhoushan Green Food Co., Ltd.	
Zhoushan Haiwang Seafood Co., Ltd.	
Zhoushan Haizhou Aquatic Products	
Zhoushan Haohai Aquatic Products Co.	
Zhuanghe Yongchun Marine Products	
Zhuhai Doumen Baole Food and Beverage Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Common Alloy Aluminum Sheet, A–570–073	2/1/25–1/31/26
Yantai Jintai International Trade Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Crystalline Silicon Photovoltaic Products, A–570–010	2/1/25–1/31/26
Anji Dasol Solar Energy Science & Technology Co., Ltd.	
BYD (Shangluo) Industrial Co., Ltd.	
Canadian Solar International Limited	
Canadian Solar Manufacturing (Changshu) Inc.	
Canadian Solar Manufacturing (Luoyang) Inc.	
Changzhou Trina Hezhong Photoelectric Co., Ltd.	
Changzhou Trina Solar Energy Co., Ltd.	
Changzhou Trina Solar Yabang Energy Co., Ltd.	
Chint Energy (Haining) Co., Ltd.; Chint Solar (Hong Kong) Company Limited; Chint Solar (Jiuquan) Co., Ltd.	
Chint Solar (Zhejiang) Co., Ltd.; Chint New Energy Technology (Haining) Co. Ltd.	
CSI Cells Co., Ltd.	
CSI Solar Power (China) Inc.	
CSI–GCL Solar Manufacturing (Yancheng) Co., Ltd.	
De-Tech Trading Limited HK	
Hefei JA Solar Technology Co., Ltd.	
Hengdian Group DMEGC Magnetics Co. Ltd.	
Hubei Trina Solar Energy Co., Ltd.	
JA Solar Co., Ltd.	
JA Solar Technology Yangzhou Co., Ltd.	

	Period to be reviewed
Jiangsu Jinko Tiansheng Solar Co., Ltd.	
Jiawei Solarchina (Shenzhen) Co., Ltd.	
Jiawei Solarchina Co., Ltd.	
JingAo Solar Co., Ltd.	
Jinko Solar Co. Ltd.	
Jinko Solar Import and Export Co., Ltd.	
Jinko Solar International Limited	
JinkoSolar Technology (Haining) Co., Ltd.	
Jiujiang Shengchao Xinye Technology Co., Ltd.	
Jiujiang Shengzhao Xinye Trade Co., Ltd.	
Lightway Green New Energy Co., Ltd.	
Longi (HK) Trading Ltd.	
Longi Solar Technology Co. Ltd.; Lerri Solar Technology Co., Ltd.	
Luoyang Suntech Power Co., Ltd.	
Ningbo ETDZ Holdings, Ltd.	
Ningbo Qixin Solar Electrical Appliance Co., Ltd.	
Perlight Solar Co., Ltd.	
Renesola Jiangsu Ltd.	
ReneSola Zhejiang Ltd.	
Risen (Luoyang) New Energy Co., Ltd.	
Risen (Wuhai) New Energy Co., Ltd.	
Risen Energy Co. Ltd.; Risen Energy (Changzhou) Co., Ltd.	
Ruichang Branch, Risen Energy (HongKong) Co., Ltd.	
Shanghai BYD Co., Ltd.	
Shenzhen Sungold Solar Co., Ltd.	
Shenzhen Topray Solar Co., Ltd	
Shenzen Yingli New Energy Resources Co., Ltd.; Baoding Jiasheng Photovoltaic Technology Co., Ltd.; Baoding Tianwei Yingli New Energy Resources Co., Ltd.; Beijing Tianneng Yingli New Energy Resources Co., Ltd.; Hainan Yingli New Energy Resources Co., Ltd.; Hengshui Yingli New Energy Resources Co., Ltd.; Hainan Yingli New Energy Resources Co., Ltd.; Hengshui Yingli New Energy Resources Co., Ltd.; Lixian Yingli New Energy Resources Co., Ltd.; Tianjin Yingli New Energy Resources Co., Ltd.; Yingli Energy (China) Company Limited	
Sumec Hardware & Tools Co., Ltd.	
Sunny Apex Development Ltd.	
Suntech Power Co., Ltd.	
Taizhou BD Trade Co., Ltd.	
tenKsolar (Shanghai) Co., Ltd.	
Trina Solar (Changzhou) Science & Technology Co., Ltd.	
Trina Solar (Changzhou) Science and Technology Co., Ltd.	
Trina Solar (Hefei) Science and Technology Co., Ltd.	
Trina Solar Co., Ltd.	
Turpan Trina Solar Energy Co., Ltd.	
Wuxi Suntech Power Co., Ltd.	
Wuxi Tianran Photovoltaic Co., Ltd.	
Xiamen Yiyusheng Solar Co., Ltd.	
Yancheng Trina Guoneng Photovoltaic Technology Co., Ltd.	
Yingli Green Energy International Trading Company Limited	
Yuhuan Jinko Solar Co., Ltd.	
Zhejiang Aiko Solar Energy Technology Co., Ltd.	
Zhejiang Jinko Solar Co., Ltd.	
Zhejiang Twinsel Electronic Technology Co., Ltd	
THE PEOPLE'S REPUBLIC OF CHINA: Gas Powered Pressure Washers, A–570–148	2/1/25–1/31/26
Aceup Energy	
BE Pressure Supply MFG (Pinghu) Co., Ltd.	
BE Pressure Supply MFG Co. Ltd.	
China GTL Tools Group, Ltd.	
Chongqing Dajiang Power Equipment Co., Ltd.	
Chongqing Dinking Power Machinery	
Chongqing Rato Technology Co., Ltd.	
Ducar Technology Company Limited	
Hangzhou Power Young Technology Co., Ltd.	
Jiangsu Jianghuai Engine Co., Ltd.	
Kunshan Teande Precision Machinery Co., Ltd.	
Loncin Motor Co., Ltd.	
Maxworld Home Co., Ltd.	
MWE Investments LLC	
Ningbo Jugang Machinery Manufacturing Co., Ltd.	
Pinghu Biyi Cleaning Equipment Co., Ltd.	
Powerful Machinery & Electronics Technology Developing Co., Ltd.	
Qingdao Teande Trading Co., Ltd.	
Senci Electric Machinery Co., Ltd.	
Shanghai Baihong Electromechanical Technology Co., Ltd.	
Shanghai Sishun E–COMMERCE Co., Ltd.	
Shanghai Super Champion Machine and Electrical Equipment Co., Ltd.	
Sumec Hardware and Tools Co., Ltd.	

	Period to be reviewed
Taizhou Bison Machinery Co., Ltd.	
Taizhou Longfa Machinery Co., Ltd.	
Taizhou Newland Machinery Co., Ltd.	
Teande (Shanghai) Trading Co., Ltd.	
Tianjin Teande Machinery Equipment Co., Ltd.	
TOOLCY	
VEVOR Corporation	
Zhejiang Anlu Cleaning Machinery Co., Ltd.	
Zhejiang Constant Power Machinery Co., Ltd.	
Zhejiang Danau Machine Co., Ltd.	
Zhejiang Dobest POWER Tools Co., Ltd.	
Zhejiang Kuhong Machinery Technology Co., Ltd.	
Zhejiang Lingben Machinery & Electronics Co., Ltd.	
Zhejiang Xinchang Bigyao Power Tool Co., Ltd.	
Zhejiang Yili Machinery & Electric Co., Ltd.	
Zhejiang Zhinanche Cleaning Equipment Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Wood Mouldings and Millwork Products, A–570–117	2/1/25–1/31/26
Anji Huaxin Bamboo & Wood Products Co., Ltd.	
Baixing Import and Export Trading Co., Ltd., Ltd Youxi Fujian	
Bel Trade Wood Industrial Co.	
Bel Trade Wood Industrial Co., Ltd Youxi Fujian	
Fotiou Frames Limited	
Fujian Hongjia Craft Products Co., Ltd.	
Fujian Jinquan Trade Co., Ltd.	
Fujian Sanming City Donglai Wood Co., Ltd.	
Fujian Wangbin Decorative Material Co., Ltd	
Fujian Yinfeng Imp & Exp Trading Co., Ltd.	
Fujian Youxi Best Arts & Crafts Co. Ltd	
Fujian Zhangping Kimura Forestry Products Co., Ltd.	
Gaomi Hongtai Home Furniture Co., Ltd.	
Homebuild Industries Co., Ltd.	
Huaan Longda Wood Industry Co., Ltd	
Jiangsu Chensheng Forestry Development Co., Ltd.	
Jiangsu Wenfeng Wood Co., Ltd.	
Jim Fine Wooden Products Co., Ltd.	
Longquan Jiefeng Trade Co., Ltd.	
Nanping Huatai Wood & Bamboo Co., Ltd	
Omni One Co., Limited.	
Putian Yihong Wood Industry Co., Ltd.	
Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp.)	
Sanming Lintong Trading Co., Ltd.	
Shandong Miting Household Co., Ltd.	
Shaxian Hengtong Wood Industry Co., Ltd	
Shaxian Shiyiwood, Ltd	
Shenzhen Xinjintai Industrial Co., Ltd.	
Shuyang Kevin International Co., Ltd	
Sun Valley Shade Co., Ltd.	
Suqian Sulu Import & Export Trading Co., Ltd	
Tim Feng Manufacturing Co., Ltd.	
Wuxi Boda Bamboo & Wood Industrial Co., Ltd.	
Xiamen Zihua Industry & Trade Co., Ltd.	
Youxi Fujian	
Zhangzhou Wangjiamei Industry & Trade Co., Ltd.	
Zhangzhou Yihong Industrial Co., Ltd.	
CVD Proceedings	
INDIA: Sodium Nitrite, C–533–907	1/1/25–12/31/25
Buradon Inc.	
Deepak Nitrite Limited	
Kronox Lab Sciences Pvt Ltd.	
Kutch Chemical Industries Ltd	
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, C–580–837	1/1/25–12/31/25
Boxco, Inc.	
DK Corporation	
Dongkuk Coated Metal Co., Ltd.	
Dongkuk Steel Mill Co., Ltd	
Hyundai Steel Company	
Joongangar Co., Ltd	
KY—Solution Co. Ltd	
M.T. Korea	
Posco International Corporation	
Samsung Electronics Co., Ltd	
SM Steel Co., Ltd.	
TBK Co., Ltd	

	Period to be reviewed
THE PEOPLE'S REPUBLIC OF CHINA: Common Alloy Aluminum Sheet, C–570–074	1/1/25–12/31/25
Alcha International Holdings Limited	
Jiangsu Alcha Aluminium Co., Ltd.	
Yantai Jintai International Trade Co., Ltd.	
Yinbang Clad Material Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Gas Powered Pressure Washers, C–570–149	1/1/25–12/31/25
Aceup Energy	
BE Pressure Supply MFG (Pinghu) Co., Ltd.	
BE Pressure Supply MFG Co. Ltd.	
China GTL Tools Group, Ltd.	
Chongqing Dajiang Power Equipment Co., Ltd.	
Chongqing Dinking Power Machinery	
Chongqing Rato Technology Co., Ltd.	
Ducar Technology Company Limited	
Hangzhou Power Young Technology Co., Ltd.	
Jiangsu Jianghuai Engine Co., Ltd.	
Kunshan Teande Precision Machinery Co., Ltd.	
Loncin Motor Co., Ltd.	
Maxworld Home Co., Ltd.	
MWE Investments LLC	
Ningbo Jugang Machinery Manufacturing Co., Ltd.	
Pinghu Biyi Cleaning Equipment Co., Ltd.	
Powerful Machinery & Electronics Technology Developing Co., Ltd.	
Qingdao Teande Trading Co., Ltd.	
Senci Electric Machinery Co., Ltd.	
Shanghai Baihong Electromechanical Technology Co., Ltd.	
Shanghai Sishun E–COMMERCE Co., Ltd.	
Shanghai Super Champion Machine and Electrical Equipment Co., Ltd.	
Sumec Hardware and Tools Co., Ltd.	
Taizhou Bison Machinery Co., Ltd.	
Taizhou Longfa Machinery Co., Ltd.	
Taizhou Newland Machinery Co., Ltd.	
Teande (Shanghai) Trading Co., Ltd.	
Tianjin Teande Machinery Equipment Co., Ltd.	
TOOLCY	
VEVOR Corporation	
Zhejiang Anlu Cleaning Machinery Co., Ltd.	
Zhejiang Constant Power Machinery Co., Ltd.	
Zhejiang Danau Machine Co., Ltd.	
Zhejiang Dobest POWER Tools Co., Ltd.	
Zhejiang Kuhong Machinery Technology Co., Ltd.	
Zhejiang Lingben Machinery & Electronics Co., Ltd.	
Zhejiang Xinchang Bigyao Power Tool Co., Ltd.	
Zhejiang Yili Machinery & Electric Co., Ltd.	
Zhejiang Zhinanche Cleaning Equipment Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Truck and Bus Tires, C–570–041	1/1/25–12/31/25
Triangle Tyre Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Wood Mouldings and Millwork Products, C–570–118	1/1/25–12/31/25
Anji Huaxin Bamboo & Wood Products Co., Ltd.	
Aventra Inc.	
Baixing Import and Export Trading Co., Ltd Youxi Fujian	
Bel Trade Wood Industrial Co.	
Bel Trade Wood Industrial Co., Ltd Youxi Fujian	
Cao County Hengda Wood Products Co., Ltd.	
China Cornici Co. Ltd.	
Fotiou Frames Limited	
Fujian Hongjia Craft Products Co., Ltd.	
Fujian Jinquan Trade Co., Ltd.; Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd.[32]	
Fujian Shunchang Shengsheng Wood Industry Limited Company	
Fujian Wangbin Decorative Material Co., Ltd	
Fujian Yinfeng Imp & Exp Trading Co., Ltd.; Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.; Fujian Province Youxi City Mangrove Wood Machining Co., Ltd Youxi Xicheng Branch[33]	
Fujian Youxi Best Arts & Crafts Co. Ltd	
Fujian Zhangping Kimura Forestry Products Co., Ltd.	
Homebuild Industries Co., Ltd.	
Huaan Longda Wood Industry Co., Ltd	
Jiangsu Chensheng Forestry Development Co., Ltd.	
Jiangsu Wenfeng Wood Co., Ltd.	
Longquan Jiefeng Trade Co., Ltd.; Zhejiang Senya Board Industry Co., Ltd.[34]	
Nanping Huatai Wood & Bamboo Co., Ltd	
Omni One Co., Limited.	
Putian Yihong Wood Industry Co., Ltd.	
Raoping HongRong Handicrafts Co., Ltd. (d.b.a. Chen Chui Global Corp.)	
Sanming Lintong Trading Co., Ltd.	

	Period to be reviewed
Shandong Miting Household Co., Ltd. Shaxian Hengtong Wood Industry Co., Ltd Shaxian Shiyiwood, Ltd Shenzhen Xinjintai Industrial Co., Ltd. Shuyang Kevin International Co., Ltd Suqian Sulu Import & Export Trading Co., Ltd. Wuxi Boda Bamboo & Wood Industrial Co., Ltd. Zhangzhou Wangjiamei Industry & Trade Co., Ltd. Zhangzhou Yihong Industrial Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules [35]. C–570–980 1/1/24–12/31/24 Hanwha Corporation Hanwha Q CELLS Corporation Hanwha Q CELLS Malaysia Sdn. Bhd. Hanwha Solutions Corporation Longi Technology SDN	

Suspension Agreements

None.

[4] On 12/15/2016, the Department found that Avanti Frozen Foods Private Limited is the successor-in-interest to Avanti Feeds Limited. Consequently, effective 12/15/2016, all entries for Avanti Feeds Limited should have been made under the case number for Avanti Frozen Foods Private Limited.

[5] On March 11, 2024, Commerce determined that Elque Ventures Private Limited is the successor-in interest to Elque & Co. Therefore, the results of this review will be applicable to the Elque Group comprised of the companies listed above. *See Certain Frozen Warmwater Shrimp From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 89 FR 17386 (March 11, 2024).

[6] Shrimp produced and exported by Devi Sea Foods Limited (Devi) was excluded from the order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp from India: Final Results of the Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41814 (July 19, 2010). Accordingly, we are initiating this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

[7] On December 23, 2022, Commerce determined that Kader Exports Private Limited is the successor in-interest to the Liberty Group, which is comprised of Devi Marine Food Exports Private Ltd.; Kader Exports Private Limited; Kader Investment and Trading Company Private Limited; Liberty Frozen Foods Private Limited; Liberty Oil Mills Limited; Premier Marine Products Private Limited; and Universal Cold Storage Private Limited. *See Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 87 FR 78941 (December 23, 2022).

[8] Where interested parties requested review of a company name with a doing-business-as name (DBA), Commerce treated the company names and DBA names separately for review initiation purposes.

[9] Interested parties requested a review of Camau Frozen Seafood Processing Import Export Corporation, but Commerce has previously determined that Camimex Group Joint Stock Company is the successor-in-interest to Camau Frozen Seafood Processing Import Export Corporation, so has only listed Camimex Group Joint Stock Company in this notice. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 86 FR 47617 (August 26, 2021).

[10] Shrimp produced and exported by Minh Phat Seafood Company Limited were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[11] Shrimp produced and exported by Minh Phu Hau Giang Seafood aka Minh Phu Hau Giang Seafood Corporation aka Minh Phu Hau Giang Seafood Processing were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[12] Shrimp produced and exported by Minh Phu Seafood Corporation were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[13] Shrimp produced and exported by Minh Qui Seafood Co., Ltd. were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[14] Interested parties requested a review of these companies separately, but Commerce has listed them together here because it previously determined that these entities are affiliated within the meaning of section 771(33) of the Act and comprise a single entity pursuant to 19 CFR 351.401(f). *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Request for Revocation, In Part, of the Fifth Administrative Review,* 76 FR 12054, 12056 (March 4, 2011), unchanged in *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 56158 (September 12, 2011).

[15] Interested parties requested a review of FIMEX VN and Sao Ta Seafood Factory separately, but Commerce has listed them together here because it previously determined that these two entities are affiliated within the meaning of section 771(33) of the Act and comprise a single entity pursuant to 19 CFR 351.401(f). *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2017–2018,* 84 FR 44859 (August 27, 2019).

[16] Interested parties requested a review of Thong Thuan Company Limited and Thong Thuan Cam Ranh Seafood Joint Stock Company separately, but Commerce has listed them together here because it previously determined that these two entities are affiliated within the meaning of section 771(33) of the Act and comprise a single entity pursuant to 19 CFR 351.401(f). *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of and Final Rescission of Review, in Part, of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 8429 (February 23, 2026).

[17] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2006–2007,* 73 FR 50933 (August 29, 2008) (*2006–2007 AR Final*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[18] Certain frozen warmwater shrimp produced and exported by Chanthaburi Frozen Food Co., Ltd. (Chanthaburi Frozen) were excluded from the order effective January 16, 2009. *See Implementation of the Findings of the WTO Panel in United States-Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand,* 74 FR 5638 (January 30, 2009) (*Section 129 Determination*). This exclusion is not applicable to merchandise exported to the United States by Chanthaburi Frozen in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter

combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Chanthaburi Frozen; (2) produced by Chanthaburi Frozen and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[19] Certain frozen warmwater shrimp produced and exported by Chanthaburi Seafoods Co., Ltd. (Chanthaburi Seafoods) were excluded from the order effective January 16, 2009. *See Section 129 Determination.* This exclusion is not applicable to merchandise exported to the United States by Chanthaburi Seafoods in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Chanthaburi Seafoods; (2) produced by Chanthaburi Seafoods and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[20] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2015–2016,* 82 FR 30836 (*2015–2016 AR Final*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[21] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2006–2007 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[22] Certain frozen warmwater shrimp produced and exported by Marine Gold Products Ltd. (Marine Gold) were excluded from the order effective February 1, 2012. *See Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of the Order (in Part); 2011–2012,* 78 FR 42497 (July 16, 2013). This exclusion is not applicable to merchandise exported to the United States by Marine Gold in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Marine Gold; (2) produced by Marine Gold and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[23] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[24] Certain frozen warmwater shrimp produced and exported by Phatthana Frozen Food Co., Ltd. (Phatthana Frozen) were excluded from the order effective January 16, 2009. *See Certain Frozen Warm Water Shrimp from Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Notice of Revocation in Part,* 74 FR 52452 (October 13, 2009) (*CCR Final and Partial Revocation*). This exclusion is not applicable to merchandise exported to the United States by Phatthana Frozen in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Phatthana Frozen; (2) produced by Phatthana Frozen and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[25] Certain frozen warmwater shrimp produced and exported by Phatthana Seafood Co., Ltd. (Phatthana Seafood) were excluded from the order effective January 16, 2009. *See Section 129 Determination.* This exclusion is not applicable to merchandise exported to the United States by Phatthana Seafood in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Phatthana Seafood; (2) produced by Phatthana Seafood and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[26] Certain frozen warmwater shrimp produced and exported by Sea Wealth Frozen Food Co., Ltd. (Sea Wealth) were excluded from the order effective January 16, 2009. *See CCR Final and Partial Revocation.* This exclusion is not applicable to merchandise exported to the United States by Sea Wealth in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Sea Wealth; (2) produced by Sea Wealth and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[27] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[28] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[29] Certain frozen warmwater shrimp produced and exported by Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei) were excluded from the order effective January 16, 2009. *See Section 129 Determination.* This exclusion is not applicable to merchandise exported to the United States by Thai I-Mei in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. Accordingly, this initiation covers merchandise: (1) produced by a third party and exported by Thai I-Mei; (2) produced by Thai I-Mei and exported by a third party; or (3) exported by a third party that sourced subject merchandise from the excluded producer/exporter combination.

[30] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[31] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[32] In past reviews, Commerce has found these companies to be cross-owned. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2020–2021,* 88 FR 62319 (September 11, 2023); and *Wood Mouldings and Millwork Products from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2022,* 89 FR 68858 (August 28, 2024). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews

[33] In past reviews, Commerce has found these companies to be cross-owned. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2020–2021,* 88 FR 62319 (September 11, 2023); and *Wood Mouldings and Millwork Products from the People's Republic of China: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2022,* 89 FR 68858 (August 28, 2024). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

[34] In past reviews, Commerce has found these companies to be cross-owned. *See Wood Mouldings and Millwork Products from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2023,* 91 FR 8408 (February 23, 2026). Absent information to the contrary, we intend to continue to treat these entities as cross-owned for the purpose of this administrative review.

[35] In the initiation notices published on February 20, 2026 (91 FR 8186) and March 9, 2026 (91 FR 11274), Commerce inadvertently did not include the companies listed above. This notice serves as a correction.

included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[36] available at *https://www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[37]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[38] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[39] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, standalone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

Notification to Interested Parties

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: March 25, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–06127 Filed 3–30–26; 8:45 am]

BILLING CODE 3510–DS–P

[36] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[37] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[38] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[39] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–225, C–570–226]

Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Lithium Hexafluorophosphate From the People's Republic of China

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

DATES: Applicable March 25, 2026.

FOR FURTHER INFORMATION CONTACT: Jacob Waddell at (202) 482–1369 (China AD) and Carter Sherwin at (202) 482–4260 (China CVD), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

Extension of Initiation of Investigations

The Petitions

On March 5, 2026, the U.S. Department of Commerce (Commerce) received antidumping and countervailing duty petitions on imports of lithium hexafluorophosphate ($LiPF_6$) from the People's Republic of China (China), filed by Mexichem Fluor Inc. dba Orbia Fluor & Energy Materials (the petitioner).[1]

Determination of Industry Support for the Petitions

Sections 702(b)(1) and 732(b)(1) of the Tariff Act of 1930, as amended (the Act), require that a petition be filed by or on behalf of the domestic industry. To determine that the petition has been filed by or on behalf of the industry, sections 702(c)(4)(A) and 732(c)(4)(A) of the Act require that the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, sections 702(c)(4)(D) and 732(c)(4)(D) of the Act provide that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated March 5, 2026 (Petitions).

the petition, as required by subparagraph (A); or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

Extension of Time

Sections 702(c)(1)(A) and 732(c)(1)(A) of the Act provide that within 20 days of the filing of an antidumping or countervailing duty petition, Commerce will determine, *inter alia,* whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Sections 702(c)(1)(B) and 732(c)(1)(B) of the Act provide that the deadline for the initiation determination, in exceptional circumstances, may be extended by 20 days in any case in which Commerce must ''poll or otherwise determine support for the petition by the industry.'' Because it is unclear whether the industry support criteria have been met, Commerce has determined it should extend the time period for determining whether to initiate the investigations in order to further examine the issue of industry support.

Commerce will need additional time to gather and analyze additional information regarding industry support. Therefore, it is necessary to extend the deadline for determining the adequacy of the Petitions by an additional 20 days. As a result, in accordance with sections 702(c)(1)B) and 732(c)(1)(B) of the Act, Commerce's initiation determination will now be due no later than April 14, 2026.

International Trade Commission Notification

Commerce will contact the U.S. International Trade Commission (ITC) and will make this extension notice available to the ITC.

Dated: March 25, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–06128 Filed 3–30–26; 8:45 am]

BILLING CODE 3510–DS–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Disability Accommodations Reimbursement Request Form

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled Disability Accommodations Reimbursement Request Form for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by contacting Arminda Pappas at 202–492–0117 or by email to *APappas@americorps.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of AmeriCorps, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment on this information collection was published in the **Federal Register** on January 29 at 91 FR 3866. The comment period ended March 30, 2026. No public comments were received.

Title of Collection: Disability Accommodations Reimbursement Request Form.

OMB Control Number: 3045–0179.

Type of Review: Renewal.

Respondents/Affected Public: Individuals, Businesses and Organizations, State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 20.

Total Estimated Number of Annual Burden Hours: 7.

Abstract: The AmeriCorps State and National grantees provide information to request reimbursement for services associated with reasonable accommodation of AmeriCorps service members. The information will be collected electronically via email by submission of this form and the receipt(s) for services. AmeriCorps seeks to renew the current information collection without revisions. The information collection will be used in the same manner as the existing collection. AmeriCorps also seeks to continue using the current information collection until approval of the renewal by OMB. The current information collection is due to expire on March 31, 2026.

Mary Hyde,

Acting Chief of Program Operations.

[FR Doc. 2026–06135 Filed 3–30–26; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Day of Service Application Instructions (MLK & 9/11)

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public information collection request (ICR) entitled Day of Service Application Instructions (MLK & 9/11) for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by contacting Emily Stock, Project Manager for Volunteer Initiatives, at 202–606–3836 or by email to *estock@americorps.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of AmeriCorps, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment on this information collection was published in the **Federal Register** on January 27 at 91 FR 3445. The comment period ended March 30, 2026. No public comments were received.

Title of Collection: Day of Service Application Instructions (MLK & 9/11).

OMB Control Number: 3045–0180.

Type of Review: Revision.

Respondents/Affected Public: Individuals, Households, Businesses, Organizations, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 70.

Total Estimated Number of Annual Burden Hours: 1,400.

Abstract: This information collection seeks feedback on AmeriCorps Day of Service Application Instructions for future MLK and 9/11 Day of Service grant competitions after the expiration of the current Application Instructions. AmeriCorps seeks to revise the current information collection instrument to reflect the Single Audit threshold of $1,000,000 (formerly $750,000), revise the definition of ''equipment'' to reflect an acquisition cost of $10,000 or more per unit (formerly $5,000), and update the de minimis rate to 15% of modified total direct costs (formerly 10%). The information collection will be used in the same manner as the existing collection. AmeriCorps also seeks to continue using the current information collection until OMB approves the revision. The current information collection is due to expire on March 31, 2026.

Mary Hyde,

Acting Chief of Program Operations.

[FR Doc. 2026–06137 Filed 3–30–26; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2026–HQ–0233]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States (U.S.) Army Installation Management Command, G1 Passport Services Division/DoD Passport and Visa announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 1, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of War, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Installation Management Command, G1 Passport Services Division/DoD Passport and Visa, 9301 Chapek Road, Fort Belvoir, VA 22060, ATTN: Mr. Edmund T. Snead, (703) 545–9531, or email: *edmund.t.snead.civ@army.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Authorization to Apply for a ''No-Fee'' Passport and/or Request for Visa; DD Form 1056; OMB Control Number 0702–0134.

Needs and Uses: The information collection requirement is necessary to obtain and record the personally identifiable information of official passport and/or visa applicants. This information is used to process, track, and verify no-fee passport and visa applications and requests for additional visa pages, Status of Forces Agreement endorsements. Authorization to apply for a no-fee passport and/or request for a visa is granted to those who can verify U.S. citizenship and legitimate official travel needs. The information collected on this form is shared with the Department of State and the embassy of the country to which the traveler is going for the production of the needed travel documents. Respondents include DoD civilians and military members and their dependents traveling on official orders.

Affected Public: Individuals or households.

Annual Burden Hours: 175,000.

Number of Respondents: 175,000.

Responses per Respondent: 1.

Annual Responses: 175,000.

Average Burden per Response: 60 minutes.

Frequency: On occasion.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06220 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2026–HQ–0232]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States Military Academy (USMA) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 1, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of War, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army Records Management Directorate (ARMD), 9301 Chapek Road, Ft. Belvoir, VA 22060–5605, ATTN: Mr. Douglas Fravel, or call 571–515–0220.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: United States Military Academy Candidate Admission Procedures; OMB Control Number 0702–0060.

Needs and Uses: The United States Military Academy (USMA) is collecting this information to guide qualified candidates through its admissions process and to select the annual incoming class of cadets. This collection is required to determine which candidates will be admitted and is authorized by Title 10, United States Code, Section 4346, which outlines admission requirements, and Army Regulation 210–26.

The information is used by the USMA Department of Admissions to holistically evaluate candidates in a multi-phase process. In the Pre-Candidate phase, an initial Candidate Questionnaire is used to determine if an applicant meets the minimum qualifications. Competitive applicants move to the Candidate phase, where they complete a Candidate Kit, providing comprehensive data including academic records, evaluations, and essays. Finally, accepted candidates submit additional information to facilitate their transition into the Corps of Cadets, covering everything from medical forms to uniform measurements.

The respondents are prospective students applying for admission to West Point. Without this information collection, the USMA Admissions Committee would be unable to effectively evaluate candidates' qualifications, character, and leadership potential, thus hindering its ability to select the most qualified individuals to become commissioned leaders of character.

Affected Public: Individuals or households.

Pre-Candidate Procedures

Annual Burden Hours: 10,000.
Number of Respondents: 75,000.
Responses per Respondent: 1.
Annual Responses: 75,000.
Average Burden per Response: 8 minutes.

Candidate Application Procedures (Submitted by Applicant)

Annual Burden Hours: 8,783.
Number of Respondents: 5,000.
Responses per Respondent: 1.
Annual Responses: 5,000.
Average Burden per Response: 105.4 minutes.

Candidate Application Procedures (Submitted by Others)

Annual Burden Hours: 4,200.
Number of Respondents: 25,200.
Responses per Respondent: 1.
Annual Responses: 25,200.
Average Burden per Response: 10 minutes.

Accepted Candidate Procedures

Annual Burden Hours: 2,208.
Number of Respondents: 1,250.
Responses per Respondent: 1.
Annual Responses: 1,250.
Average Burden per Response: 106 minutes.

Total

Annual Burden Hours: 25,192.
Number of Respondents: 106,450.
Annual Responses: 106,450.
Frequency: On occasion.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06215 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2026–HQ–0234]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States (U.S.) Army Claims Service announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the

proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 1, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of War, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army Records Management Directorate, 9301 Chapek Road, Ft. Belvoir, VA 22060–5605, Attn: Mr. Douglas Fravel, or call 571–515–0220.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Administrative Claims for Loss and Damage to Personal Property; DD Forms 1842 and 1844; OMB Control Number 0702–PROP.

Needs and Uses: Information must be collected to process and settle claims for personal property that is lost, damaged, or destroyed incident to government service. This collection is necessary to comply with the Military Personnel and Civilian Employees Claims Act (31 United States Code, section 3721), which authorizes payment for loss or damage of personal property incident to service.

The information is collected using DD Form 1842 and DD Form 1844 and is used by Military Claims Office personnel across the Services to adjudicate claims. The data allows claims examiners to verify claimant eligibility, assess the value of the lost or damaged property, and determine the appropriate reimbursement. The collection is primarily done through service-specific websites, though paper forms are also available.

The respondents are military and civilian personnel, their family members, or their next of kin who have suffered a property loss during official travel or other circumstances related to their service. Without this information collection, the Services would be unable to process claims and reimburse personnel for their property losses as required by law. Respondents are retired/former military, retired/former Federal (GS/NAF) employees, U.S. military Academy students, ROTC Cadets, family members with Power of Attorney, and Next of Kin.

Affected Public: Individuals and households.

Annual Burden Hours: 46,600.

Number of Respondents: 11,650.

Responses per Respondent: 2.

Annual Responses: 23,300.

Average Burden per Response: 2 hours.

Frequency: On occasion.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06216 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2026–HA–0102]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Women, Infants, and Children Overseas Program (WIC Overseas) Eligibility Application; OMB Control Number 0720–0030.

Type of Request: On occasion.

Number of Respondents: 14,550.

Responses per Respondent: 2.

Annual Responses: 29,100.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 7,275.

Needs and Uses: The information collection requirement is necessary for individuals to apply for certification and periodic recertification to receive WIC Overseas benefits

Affected Public: Individuals or households.

Frequency: As required.

Respondent's Obligation: Voluntary.

DOD Clearance Officer: Mr. Reginald Lucas.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06221 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2026–HA–0103]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting

''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Active-Duty Dental Program (ADDP) Claim Form; OMB Control Number 0720–0053.

Type of Request: Renewal.

Number of Respondents: 75,000.

Responses per Respondent: 4.

Annual Responses: 300,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 75,000.

Needs and Uses: The information collection is necessary to obtain and record the dental readiness of Service Members using the Active Duty Dental Program and at the same time submit the claim for the dental procedures provided so that claims can be processed and reimbursement made to the provider. Many Service Members are not located near a military dental treatment facility and receive their dental care in the private sector.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DOD Clearance Officer: Mr. Reginald Lucas.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06213 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2026–OS–0133]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Intelligence and Security (OUSD(I&S)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Reginald Lucas, (571) 372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Freedom of Information/Privacy Act Request for Adjudication and Vetting Records; OMB Control Number 0704–0561.

Type of Request: Revision.

Number of Respondents: 1,005.

Responses per Respondent: 1.

Annual Responses: 1,005.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 84.

Needs and Uses: The information collection is required to ensure needed information is collected to positively identify individuals who request records regarding themselves that are maintained by DCSA Personnel Vetting. These records will also be used in any Privacy Act appeals or related litigation. The Freedom of Information/Privacy Act Request for Adjudication and Vetting Records form will also be used to refer records under the release authority of another Federal Agency.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

DOD Clearance Officer: Mr. Reginald Lucas.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06218 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2026–OS–0727]

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Services (WHS), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the WHS announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 1, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of War, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Facilities Operations and Services, Facilities Services Division, Washington Headquarters Services, 1400 Defense Pentagon, 2E122, Washington, DC 20301–1400, Mr. Kenneth Gordon, (703) 695–2513.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application/Permit for Use of Space on the Pentagon Reservation; DD Form 2798; OMB Control Number 0704–AUSP.

Needs and Uses: In accordance with 32 CFR 234, which governs conduct on the Pentagon Reservation, individuals and organizations (permit applicants) who wish to use space on the Pentagon Reservation submit a DD Form 2798,

''Application/Permit For Use Of Space On The Pentagon Reservation.'' Reasons to submit a DD Form 2798 include seeking permit for group photos, posters, corridor displays, construction (demolition, survey, laydown, storage), and special events (induction and award ceremonies, changes-of-command, promotions, and retirements). DD Form 2798 is required for use of Pentagon Reservation public space, not activities in leased spaces.

Affected Public: Businesses or other for-profit; Not-for-profit.

Annual Burder Hours: 12.5.

Number of Respondents: 30.

Responses per Respondent: 1.

Annual Responses: 30.

Average Burden per Response: 25 minutes.

Frequency: On occasion.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06222 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Defense Human Resources Activity (DHRA), Department of Defense (DoD).

ACTION: Notice of revised per diem rates in non-foreign areas outside the continental United States (U.S.).

SUMMARY: DHRA publishes this Civilian Personnel Per Diem Bulletin Number 331. Bulletin Number 331 lists current per diem rates prescribed for reimbursement of subsistence expenses while on official Government travel to Alaska, Hawaii, the Commonwealth of Puerto Rico, and the possessions of the U.S. The Calendar Year (CY) 2026 lodging rate review for Puerto Rico resulted in rate changes for multiple locations.

DATES: The updated rates take effect April 1, 2026.

FOR FURTHER INFORMATION CONTACT: Holly Korcel, 571–372–1300, *holly.n.korcel.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: This document notifies the public of revisions in per diem rates prescribed by the Per Diem, Travel, and Transportation Allowance Committee for travel to non-foreign areas outside the continental U.S. The CY 2026 lodging rate review for Puerto Rico resulted in lodging rate increases for multiple locations. Bulletin Number 331 is published in the **Federal Register** to ensure that Government travelers outside the DoD are notified of revisions to the current reimbursement rates.

If you believe the lodging, meal or incidental allowance rate for a locality listed in the following table is insufficient, you may request a rate review for that location. For more information about how to request a review, please see the Defense Travel Management Office's Per Diem Rate Review Frequently Asked Questions (FAQ) page at *https://www.travel.dod.mil/Travel-Transportation-Rates/Per-Diem/.*

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	[OTHER]	01/01	12/31	239	143	382	01/01/2026
ALASKA	ADAK	01/01	12/31	239	143	382	01/01/2026
ALASKA	ANCHORAGE	04/01	09/30	329	148	477	01/01/2026
ALASKA	ANCHORAGE	10/01	03/31	239	148	387	01/01/2026
ALASKA	BARROW	05/01	08/31	301	143	444	01/01/2026
ALASKA	BARROW	09/01	04/30	266	143	409	01/01/2026
ALASKA	BARTER ISLAND LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	BETHEL	01/01	12/31	239	143	382	01/02/2026
ALASKA	BETTLES	01/01	12/31	239	143	*382	01/01/2026
ALASKA	CAPE LISBURNE LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	CAPE NEWENHAM LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	CAPE ROMANZOF LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	CLEAR AB	01/01	12/31	239	143	382	01/01/2026
ALASKA	COLD BAY	01/01	12/31	239	143	382	01/01/2026
ALASKA	COLD BAY LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	COLDFOOT	01/01	12/31	249	143	392	01/01/2026
ALASKA	COPPER CENTER	01/01	12/31	239	143	382	01/01/2026
ALASKA	CORDOVA	01/01	12/31	239	143	382	01/01/2026
ALASKA	CRAIG	05/01	09/30	275	143	418	01/01/2026
ALASKA	CRAIG	10/01	04/30	199	143	342	01/01/2026
ALASKA	DEADHORSE	01/01	12/31	239	143	*382	01/01/2026
ALASKA	DELTA JUNCTION	01/01	12/31	239	143	382	01/01/2026
ALASKA	DENALI NATIONAL PARK	05/01	09/30	275	143	418	01/01/2026
ALASKA	DENALI NATIONAL PARK	10/01	04/30	199	143	342	01/01/2026
ALASKA	DILLINGHAM	01/01	12/31	320	143	463	01/01/2026
ALASKA	DUTCH HARBOR–UNALASKA	01/01	12/31	239	143	382	01/01/2026
ALASKA	EARECKSON AIR STATION	01/01	12/31	146	74	220	01/01/2026
ALASKA	EIELSON AFB	05/16	09/30	275	143	412	01/01/2026
ALASKA	EIELSON AFB	10/01	05/15	199	143	332	01/01/2026
ALASKA	ELFIN COVE	01/01	12/31	239	143	382	01/01/2026
ALASKA	ELMENDORF AFB	04/01	09/30	329	148	477	01/01/2026
ALASKA	ELMENDORF AFB	10/01	03/31	239	148	387	01/01/2026
ALASKA	FAIRBANKS	04/16	11/30	279	133	412	01/01/2026
ALASKA	FAIRBANKS	12/01	04/15	199	133	332	01/01/2026
ALASKA	FORT YUKON LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	FT. GREELY	01/01	12/31	239	143	382	01/01/2026
ALASKA	FT. RICHARDSON	04/01	09/30	329	148	477	01/01/2026
ALASKA	FT. RICHARDSON	10/01	03/31	239	148	387	01/01/2026
ALASKA	FT. WAINWRIGHT	04/16	11/30	279	133	412	01/01/2026
ALASKA	FT. WAINWRIGHT	12/01	04/15	199	133	332	01/01/2026

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	GAMBELL	01/01	12/31	239	143	382	01/01/2026
ALASKA	GLENNALLEN	01/01	12/31	239	143	382	01/01/2026
ALASKA	HAINES	01/01	12/31	239	143	382	01/01/2026
ALASKA	HEALY	05/01	09/30	275	143	418	01/01/2026
ALASKA	HEALY	10/01	04/30	199	143	342	01/01/2026
ALASKA	HOMER	05/01	09/30	275	143	418	01/01/2026
ALASKA	HOMER	10/01	04/30	199	143	342	01/01/2026
ALASKA	JB ELMENDORF–RICHARDSON	04/01	09/30	329	148	477	01/01/2026
ALASKA	JB ELMENDORF–RICHARDSON	10/01	03/31	239	148	387	01/01/2026
ALASKA	JUNEAU	02/01	10/31	274	143	417	01/01/2026
ALASKA	JUNEAU	11/01	01/31	239	143	382	01/01/2026
ALASKA	KAKTOVIK	01/01	12/31	239	143	*382	01/01/2026
ALASKA	KAVIK CAMP	01/01	12/31	239	143	*382	01/01/2026
ALASKA	KENAI–SOLDOTNA	05/01	10/31	275	143	418	01/01/2026
ALASKA	KENAI–SOLDOTNA	11/01	04/30	199	143	342	01/01/2026
ALASKA	KENNICOTT	01/01	12/31	239	143	382	01/01/2026
ALASKA	KETCHIKAN	05/01	09/30	275	143	418	01/01/2026
ALASKA	KETCHIKAN	10/01	04/30	188	143	331	01/01/2026
ALASKA	KING SALMON	01/01	12/31	239	143	382	01/01/2026
ALASKA	KING SALMON LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	KLAWOCK	01/01	12/31	239	143	382	01/01/2026
ALASKA	KODIAK	05/01	11/30	231	139	370	01/01/2026
ALASKA	KODIAK	12/01	04/30	145	139	284	01/01/2026
ALASKA	KOTZEBUE	01/01	12/31	239	143	382	01/01/2026
ALASKA	KULIS AGS	04/01	09/30	329	148	477	01/01/2026
ALASKA	KULIS AGS	10/01	03/31	239	148	387	01/01/2026
ALASKA	MCCARTHY	01/01	12/31	239	143	382	01/01/2026
ALASKA	MCGRATH	01/01	12/31	239	143	*382	01/01/2026
ALASKA	MURPHY DOME	04/16	11/30	279	133	412	01/01/2026
ALASKA	MURPHY DOME	12/01	04/15	199	133	332	01/01/2026
ALASKA	NOME	05/01	08/31	275	143	418	01/01/2026
ALASKA	NOME	09/01	04/30	242	143	385	01/01/2026
ALASKA	NOSC ANCHORAGE	04/01	09/30	329	148	477	01/01/2026
ALASKA	NOSC ANCHORAGE	10/01	03/31	239	148	387	01/01/2026
ALASKA	NUIQSUT	01/01	12/31	239	143	*382	01/01/2026
ALASKA	OLIKTOK LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	PALMER	05/01	09/30	275	143	418	01/01/2026
ALASKA	PALMER	10/01	04/30	199	143	342	01/01/2026
ALASKA	PETERSBURG	01/01	12/31	239	143	382	01/01/2026
ALASKA	POINT BARROW LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	POINT HOPE	01/01	12/31	239	143	*382	01/01/2026
ALASKA	POINT LONELY LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	PORT ALEXANDER	01/01	12/31	239	143	*382	01/01/2026
ALASKA	PORT ALSWORTH	01/01	12/31	239	143	382	01/01/2026
ALASKA	PRUDHOE BAY	01/01	12/31	239	143	*382	01/01/2026
ALASKA	SELDOVIA	05/01	09/30	275	143	418	01/01/2026
ALASKA	SELDOVIA	10/01	04/30	199	143	342	01/01/2026
ALASKA	SEWARD	04/01	09/30	284	189	473	01/01/2026
ALASKA	SEWARD	10/01	03/31	199	189	388	01/01/2026
ALASKA	SITKA–MT. EDGECUMBE	05/01	09/30	275	143	418	01/01/2026
ALASKA	SITKA–MT. EDGECUMBE	10/01	04/30	199	143	342	01/01/2026
ALASKA	SKAGWAY	05/01	09/30	275	143	418	01/01/2026
ALASKA	SKAGWAY	10/01	04/30	199	143	342	01/01/2026
ALASKA	SLANA	01/01	12/31	239	143	382	01/01/2026
ALASKA	SPARREVOHN LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	SPRUCE CAPE	03/01	09/30	275	143	418	01/01/2026
ALASKA	SPRUCE CAPE	10/01	02/28	199	143	342	01/01/2026
ALASKA	ST. GEORGE	01/01	12/31	239	143	382	01/01/2026
ALASKA	TALKEETNA	01/01	12/31	239	148	387	01/01/2026
ALASKA	TANANA	05/01	08/31	275	143	418	01/01/2026
ALASKA	TANANA	09/01	04/30	242	143	385	01/01/2026
ALASKA	TATALINA LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	TIN CITY LRRS	01/01	12/31	239	143	382	01/01/2026
ALASKA	TOK	01/01	12/31	239	143	382	01/01/2026
ALASKA	VALDEZ	05/16	09/15	275	143	418	01/01/2026
ALASKA	VALDEZ	09/16	05/15	199	143	342	01/01/2026
ALASKA	WAINWRIGHT	01/01	12/31	295	143	438	01/01/2026
ALASKA	WASILLA	06/01	09/30	275	129	404	01/01/2026
ALASKA	WASILLA	10/01	05/31	199	129	328	01/01/2026
ALASKA	WRANGELL	05/01	09/30	275	143	418	01/01/2026
ALASKA	WRANGELL	10/01	04/30	188	143	331	01/01/2026
ALASKA	YAKUTAT	06/01	09/30	350	143	493	01/01/2026
ALASKA	YAKUTAT	10/01	05/31	199	143	342	01/01/2026

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
AMERICAN SAMOA	AMERICAN SAMOA	01/01	12/31	149	103	252	05/01/2023
AMERICAN SAMOA	PAGO PAGO	01/01	12/31	149	103	252	05/01/2023
GUAM	GUAM (INCL ALL MIL INSTAL)	01/01	12/31	179	124	303	03/01/2025
GUAM	JOINT REGION MARIANAS (ANDERSEN).	01/01	12/31	179	124	303	03/01/2025
GUAM	JOINT REGION MARIANAS (NAVAL BASE).	01/01	12/31	179	124	303	03/01/2025
GUAM	TAMUNING	01/01	12/31	179	124	303	03/01/2025
HAWAII	[OTHER]	01/01	12/31	242	163	405	10/01/2025
HAWAII	CAMP H M SMITH	01/01	12/31	202	163	365	10/01/2025
HAWAII	CNI NAVMAG PEARL HARBOR-HICKAM.	01/01	12/31	202	163	365	10/01/2025
HAWAII	FT. DERUSSEY	01/01	12/31	202	163	365	10/01/2025
HAWAII	FT. SHAFTER	01/01	12/31	202	163	365	10/01/2025
HAWAII	HICKAM AFB	01/01	12/31	202	163	365	10/01/2025
HAWAII	HONOLULU	01/01	12/31	202	163	365	10/01/2025
HAWAII	ISLE OF HAWAII: HILO	01/01	12/31	199	146	345	10/01/2025
HAWAII	ISLE OF HAWAII: LOCATIONS OTHER THAN HILO.	01/01	12/31	242	180	422	10/01/2025
HAWAII	ISLE OF KAUAI	01/01	12/31	350	165	515	10/01/2025
HAWAII	ISLE OF LANAI	01/01	12/31	242	163	405	10/01/2025
HAWAII	ISLE OF MAUI	01/01	12/31	354	153	507	10/01/2025
HAWAII	ISLE OF MOLOKAI	01/01	12/31	242	163	405	10/01/2025
HAWAII	ISLE OF OAHU	01/01	12/31	202	163	365	10/01/2025
HAWAII	JB PEARL HARBOR–HICKAM	01/01	12/31	202	163	365	10/01/2025
HAWAII	KAPOLEI	01/01	12/31	202	163	365	10/01/2025
HAWAII	KEKAHA PACIFIC MISSILE RANGE FAC.	01/01	12/31	350	165	515	10/01/2025
HAWAII	KILAUEA MILITARY CAMP	01/01	12/31	199	146	345	10/01/2025
HAWAII	LIHUE	01/01	12/31	350	165	515	10/01/2025
HAWAII	MCB HAWAII	01/01	12/31	202	163	365	10/01/2025
HAWAII	NCTAMS PAC WAHIAWA	01/01	12/31	202	163	365	10/01/2025
HAWAII	NOSC PEARL HARBOR	01/01	12/31	202	163	365	10/01/2025
HAWAII	PEARL HARBOR	01/01	12/31	202	163	365	10/01/2025
HAWAII	PMRF BARKING SANDS	01/01	12/31	350	165	515	10/01/2025
HAWAII	SCHOFIELD BARRACKS	01/01	12/31	202	163	365	10/01/2025
HAWAII	TRIPLER ARMY MEDICAL CENTER	01/01	12/31	202	163	365	10/01/2025
HAWAII	WHEELER ARMY AIRFIELD	01/01	12/31	202	163	365	10/01/2025
MIDWAY ISLANDS	MIDWAY ISLANDS	01/01	12/31	125	81	206	05/01/2023
NORTHERN MARIANA ISLANDS	ROTA	01/01	12/31	161	125	286	03/01/2025
NORTHERN MARIANA ISLANDS	SAIPAN	01/01	12/31	161	113	274	05/01/2023
NORTHERN MARIANA ISLANDS	TINIAN	01/01	12/31	161	95	256	03/01/2025
PUERTO RICO	[OTHER]	01/01	12/31	184	116	300	03/01/2026
PUERTO RICO	AGUADILLA	06/01	08/31	168	97	265	03/01/2026
PUERTO RICO	AGUADILLA	09/01	05/31	149	97	246	03/01/2026
PUERTO RICO	BAYAMON	01/01	12/31	295	148	443	03/01/2026
PUERTO RICO	CAROLINA	01/01	12/31	295	148	443	03/01/2026
PUERTO RICO	CEIBA	01/01	12/31	184	110	294	03/01/2026
PUERTO RICO	CULEBRA	01/01	12/31	184	116	300	03/01/2026
PUERTO RICO	FAJARDO [INCL ROOSEVELT RDS NAVSTAT].	01/01	12/31	184	110	294	03/01/2026
PUERTO RICO	FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO].	01/01	12/31	295	148	443	03/01/2026
PUERTO RICO	HUMACAO	01/01	12/31	184	110	294	03/01/2026
PUERTO RICO	LUIS MUNOZ MARIN IAP AGS	01/01	12/31	295	148	443	03/01/2026
PUERTO RICO	LUQUILLO	01/01	12/31	184	110	294	03/01/2026
PUERTO RICO	MAYAGUEZ	01/01	12/31	129	116	245	03/01/2026
PUERTO RICO	PONCE	01/01	12/31	149	146	295	03/01/2026
PUERTO RICO	RIO GRANDE	01/01	12/31	219	103	322	03/01/2026
PUERTO RICO	SABANA SECA [INCL ALL MILITARY].	01/01	12/31	295	148	443	03/01/2026
PUERTO RICO	SAN JUAN & NAV RES STA	01/01	12/31	295	148	443	03/01/2026
PUERTO RICO	VIEQUES	01/01	12/31	184	125	309	03/01/2026
VIRGIN ISLANDS (U.S.)	ST. CROIX	07/01	10/31	247	115	362	10/01/2024
VIRGIN ISLANDS (U.S.)	ST. CROIX	11/01	06/30	299	115	414	10/01/2024
VIRGIN ISLANDS (U.S.)	ST. JOHN	04/15	12/15	324	150	474	10/01/2024
VIRGIN ISLANDS (U.S.)	ST. JOHN	12/16	04/14	414	150	564	10/01/2024
VIRGIN ISLANDS (U.S.)	ST. THOMAS	04/15	12/15	324	150	474	10/01/2024
VIRGIN ISLANDS (U.S.)	ST. THOMAS	12/16	04/14	414	150	564	10/01/2024
WAKE ISLAND	WAKE ISLAND	01/01	12/31	136	78	214	03/01/2025

* Where meals are included in the lodging rate, a traveler is only allowed a meal rate on the first and last day of travel.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06217 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2026–HQ–0133]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Naval Sea Systems Command announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 1, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of War, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Naval Sea Systems Command Maritime Industrial Base (MIB) Program, 1333 Isaac Hull Ave. SE, Washington Navy Yard, DC 20376; Attn: Mr. Matthew Evans, or call 202–781–0000.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Shipbuilding Industrial Base Demographics Survey; OMB Control Number 0703–0086.

Needs and Uses: The Department of the Navy is collecting this information to analyze the demographics, training requirements, and occupational experience of the shipbuilding defense industrial base. This collection is necessary to comply with Section 1026 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, which mandates a biennial report to Congress on this topic.

The collected data will be used to draft the biennial congressional report and to inform the Navy's strategy for funding workforce development initiatives. The analysis will identify current trends, projected experience gaps, and other key demographic factors to help strengthen the shipbuilding workforce. The information is collected via a Microsoft Excel survey, which is emailed directly to suppliers by the Naval Sea Systems Command Maritime Industrial Base Program.

The respondents for this survey are private companies and industry organizations that function as suppliers in the shipbuilding industrial base. Without this information, the Navy would be unable to provide a complete report to Congress or develop effective, data-driven strategies to ensure the health and readiness of the nation's shipbuilding workforce.

Affected Public: Business or other for-profit.

Annual Burden Hours: 6,075.

Number of Respondents: 1,263.

Responses per Respondent: 1.

Annual Responses: 1,263.

Average Burden per Response: 4.81 hours.

Frequency: Biennially.

Dated: March 27, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–06219 Filed 3–30–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0892]

Agency Information Collection Activities; Comment Request; FY 2026 Child Care Access Means Parents in School Annual Performance Report Package 84.335A

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a reinstatement without change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 1, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2026–SCC–0892. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 5B131, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Mose Cartier, 202–453–7373.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the

Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: FY 2026 Child Care Access Means Parents in School Annual Performance Report Package 84.335A.

OMB Control Number: 1840–0763.

Type of Review: Reinstatement without change of a previously approved ICR.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 350.

Total Estimated Number of Annual Burden Hours: 9,800.

Abstract: The Child Care Access Means Parents in School (CCAMPIS) annual performance reports are used to collect programmatic data for purposes of annual reporting; budget submissions to OMB; Congressional hearings and testimonials; Congressional inquiries; and responding to inquiries from higher education interest groups and the general public.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06175 Filed 3–30–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Competition Announcement; Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (ED) announces the opportunity to apply for competitive grants for the Fiscal Year (FY) 2026 under the Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are DeafBlind (Interpreter Training) program, Assistance Listing Number (ALN) 84.160D.

DATES: Complete proposals must be submitted electronically through the *Grants.gov* ''APPLY'' function by 11:59:59 p.m. Eastern time May 26, 2026.

FOR FURTHER INFORMATION CONTACT: April Hammond. Telephone: (202) 987–0114. Email: *84.160D@ed.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Interpreter Training program is to provide training to interpreters to effectively meet the communication needs of individuals who are deaf or hard of hearing and individuals who are DeafBlind receiving vocational rehabilitation (VR) services and/or services from other programs, such as independent living services, under the Rehabilitation Act of 1973 (Rehabilitation Act). The FY 2026 competition includes an absolute priority and an invitational priority, selection criteria, and requirements. The absolute priority is: Interpreter Training. The invitational priority is: Older Individuals with Disabilities.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priorities and program requirements, are available on ED's website at *https://ncrtm.ed.gov/grant-info* and on *Grants.gov* at *https://www.grants.gov/search-results-detail/361621.* The application notice and instructions on grants.gov is the official document governing the grant competition.

Program Authority: 29 U.S.C. 709(c) and 772(a) and (f).

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

Kimberly Richey,

Acting Assistant Secretary and Deputy Assistant Secretary, Delegated the authority to perform the functions and duties of Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2026–06172 Filed 3–30–26; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: Election Assistance Commission.

ACTION: Sunshine Act notice; notice of public meeting agenda.

SUMMARY: Public Meeting: U.S. Election Assistance Commission Standards Board 2026 Annual Meeting.

DATES: Thursday, April 16, 2026, 9:00 a.m. to 4:30 p.m. CT and Friday, April 17, 2026, 9:00 a.m. to 12:00 p.m. CT. The public registration deadline for the event is on or before April 10, 2026. Written comments should be received no later than 24 hours prior to the start of the meeting.

ADDRESSES: The Drake, 140 East Walton Place, Chicago, IL 60611.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will hold its annual meeting of the EAC Standards Board to conduct regular business, discuss EAC updates and upcoming programs, and discuss other relevant election topics.

Agenda: The EAC's Standards Board will hold its 2026 Annual Meeting to conduct regular business, and discuss EAC updates and upcoming programs.

Registration is required to attend. Please register by April 10, 2026, on the event page at eac.gov/events/2026/04/16/2026-eac-standards-board-annual-meeting.

Public comments on the meeting must be submitted in writing on *regulations.gov* (docket ID: EAC–2026–0101). Comments must be received no later than 24 hours prior to the start of the meeting.

Background: The Help America Vote Act (HAVA) designates a 110-member Standards Board to assist EAC in carrying out its mandates under the law. The board consists of 55 state election officials selected by their respective chief state election official, and 55 local election officials selected through a process supervised by the chief state election official.

The full agenda will be posted in advance on the EAC website: *eac.gov/events/2026/04/16/2026-eac-standards-board-annual-meeting.*

Status: This meeting will be open to the public.

Seton Parsons,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2026–06181 Filed 3–27–26; 11:15 am]

BILLING CODE 4810–71–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: Election Assistance Commission.

ACTION: Sunshine Act Notice; notice of public meeting agenda.

SUMMARY: Public Meeting: U.S. Election Assistance Commission Local Leadership Council 2026 Annual Meeting.

DATES: Tuesday, April 14, 2026, 9:00 a.m. to 4:30 p.m. CT and Wednesday, April 15, 2026, 9:00 a.m. to 12:00 p.m. CT. The public registration deadline for the event is on or before April 10, 2026. Written comments should be received no later than 24 hours prior to the start of the meeting.

ADDRESSES: The Drake, 140 East Walton Place, Chicago, IL 60611.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will hold its annual meeting of the EAC Local Leadership Council (LLC) to conduct regular business, and discuss agency updates and upcoming programs.

Agenda: The EAC's LLC will hold its 2026 Annual Meeting to conduct regular business, and discuss agency updates and upcoming programs.

Registration is required to attend. Please register by April 10, 2026, on the event page at: *eac.gov/events/2026/04/14/2026-eac-local-leadership-council-annual-meeting.*

Public comments on the meeting must be submitted in writing on *regulations.gov* (docket ID: EAC–2026–0100). Comments must be received no later than 24 hours prior to the start of the meeting.

Background: The LLC was established in June 2021 under agency authority pursuant to and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2). The Advisory Committee is governed by the Federal Advisory Committee Act, which sets forth standards for the formation and use of advisory committees. The Advisory Committee advises the EAC on how best to fulfill the EAC's statutory duties set forth in 52 U.S.C. 20922 as well as such other matters as the EAC determines. It shall provide a relevant and comprehensive source of expert, unbiased analysis and recommendations to the EAC on local election administration topics.

The LLC consists of 100 members. The EAC appoints two members from each state after soliciting nominations from each state's election official professional association. Upon appointment, Advisory Committee members must be serving or have previously served in a leadership role in a state election official professional association.

The full agenda will be posted in advance on the EAC website: *eac.gov/events/2026/04/14/2026-eac-local-leadership-council-annual-meeting.*

Status: This meeting will be open to the public.

Seton Parsons,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2026–06180 Filed 3–27–26; 11:15 am]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2576–215]

FirstLight CT Housatonic LLC; Notice of Application To Update Shoreline Management Plan Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Shoreline Management Plan Update.

b. *Project No:* 2576–215.

c. *Date Filed:* March 27, 2025, as supplemented on March 17, 2026.

d. *Applicant:* FirstLight CT Housatonic LLC.

e. *Name of Project:* Housatonic River Pumped Storage Project.

f. *Location:* The project is located on the Housatonic River in Fairfield, Litchfield and New Haven counties, Connecticut, and does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Alan Douglass, 413–659–4416, *alan.douglass@firstlight.energy*.

i. *FERC Contact:* Shana High, 202–502–8674, *shana.high@ferc.gov*.

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* April 27, 2026, 5:00pm Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2576–215. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* As a result of a required six-year review process, FirstLight CT Housatonic LLC filed a shoreline management plan update. The update was developed in consultation with stakeholders. In pertinent part, the update expands designations to include non-shoreline lands that are not adjacent to project waters but are within the project boundary, changes land designations with the goal of continuing

to limit the potential allowable uses that can occur on these lands as abutting properties become developed in the future, simplifies the requirements and process for authorization of uses, and modifies the fee structure for permit application review to correct imbalances.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1.)

Dated: March 26, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–06201 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. UL26–5–000]

Delvin Warner; Notice of Pending Jurisdictional Inquiry, and Soliciting Comments, Protests and Motions To Intervene

On February 4, 2026, the Federal Energy Regulatory Commission (Commission) received a request from the Vermont Department of Environmental Conservation (Vermont DEC) for a jurisdictional determination for the unlicensed East Branch Hydroelectric Project. The project is located on the East Branch of the Missisquoi River in Orleans County, Vermont.

Pursuant to section 23(b)(1) of the Federal Power Act (FPA),[1] a non-federal hydroelectric project must be licensed if it: (a) is located on a navigable water of the United States; (b) occupies lands or reservations of the United States; (c) utilizes surplus water or waterpower from a government dam; [2] or (d) is located on a stream over which Congress has Commerce Clause jurisdiction, is constructed or modified on or after August 26, 1935, and affects the interests of interstate or foreign commerce.

Regarding condition (d) above, for purposes of FPA section 23(b)(1), headwaters and tributaries of navigable waters are Commerce Clause streams; [3] ''post-1935'' construction or modification at an existing project includes enlarging a project, such as increasing size of the reservoir, height of the dam, or generating capacity; [4] and projects that generate energy for transmission on the interstate grid affect interstate commerce.[5]

Vermont DEC requests that the Commission examine its jurisdiction for the East Branch Project on the grounds that the project is located on a stream over which Congress has Commerce Clause jurisdiction, was constructed after August 26, 1935, and is connected to the transmission grid.[6]

In response to Vermont DEC's requests, Commission staff is investigating the jurisdictional status of the East Branch Hydroelectric Project (UL26–5–000). A copy of Vermont DEC's request may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number, UL26–5–000. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

The Commission is soliciting comments, motions to intervene, and protests in these proceedings. Comments, motions to intervene, and protests must be filed by 45 days from notice or May 11, 2026, by 5:00 p.m. Eastern Time. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 211, and 214. In determining the appropriate action to take, the Commission will consider all protests or comments filed, but only those who file a motion to intervene in accordance with the Commission's Rule may become a party to the proceedings. Any comments, protests, or motions to intervene must be received on or before the specified comment date.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/*

[1] 16 U.S.C. 817(1).

[2] A project that meets condition (a), (b), or (c) is not required to be licensed if it holds a still valid pre-1920 federal permit.

[3] *FPC* v. *Union Electric Co.,* 381 U.S. 90, 94–96 (1965).

[4] *See, e.g., L.S. Starrett Co.* v. *FERC,* 650 F.3d 19, 26–27 (1st Cir. 2011); *Cent. Vt. Pub. Serv. Corp.,* 54 FERC ¶ 61,132, at 61,434 (1991) (citing *Puget Sound Power & Light Co.* v. *FPC,* 557 F.2d 1311 (9th Cir. 1977); *Aquenergy Systems, Inc.,* 29 FERC ¶ 61,026 (1984)).

[5] *See FPC* v. *Union Elec. Co.,* 381 U.S. at 94–95. Moreover, it is well settled that small hydroelectric projects that are connected to the interstate grid, even if they have no interstate sales, affect interstate commerce by displacing power from the grid, and the cumulative effect of the national class of these small projects is significant for purposes of FPA section 23(b)(1). *See Habersham Mills* v. *FERC,* 976 F.2d 1381, 1384–85 (11th Cir. 1992).

[6] Vermont DEC February 4, 2026 Request for Determination of Commission Jurisdiction for the East Branch Hydroelectric Project at 2 and 7.

ecomment.asp. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include Docket Number UL26–5–000.

For further information, please contact Rebecca Martin at (202) 502–6012 or *rebecca.martin@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: March 26, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–06199 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–5–000]

Commission Information Collection Activities (FERC–552, FERC–549E); Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections, FERC–552, Annual Report of Natural Gas Transactions, and FERC–549E, Price Index Data Providers and Developers. There is no change to the information collection requirements for FERC–552 or FERC–549E. The Commission received one comment on the 60-day notice.

DATES: Comments on the collection of information are due April 30, 2026.

ADDRESSES: Send written comments on FERC–552 or FERC–549E to OMB through *https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202601-1902-004* (FERC–552) or *https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202601-1902-005* (FERC–549E). You can also visit *https://www.reginfo.gov/public/do/PRAMain* and use the drop-down under ''Currently under Review'' to select the ''Federal Energy Regulatory Commission'' where you can see the open opportunities to provide comments. Comments should be sent within 30 days of publication of this notice.

Please submit a copy of your comments to the Commission via email to *DataClearance@FERC.gov.* You must specify the Docket No. (IC26–5–000) and the FERC Information Collection number (FERC–552 or FERC–549E) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- *All other delivery methods:* Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit *https://elibrary.ferc.gov/eLibrary/search.*

FOR FURTHER INFORMATION CONTACT: Kayla Williams, (202) 502–6468. *DataClearance@FERC.gov.*

SUPPLEMENTARY INFORMATION:

Title: FERC–552, Annual Report of Natural Gas Transactions; FERC–549E, Price Index Data Providers and Developers.

OMB Control No.: 1902–0242, 1902–0328.

Type of Request: Three-year extension of the FERC–549E and FERC–552 information collection requirements with no changes to the current reporting requirements.

Abstract:

FERC–552: The Commission uses the information collected in FERC Form No. 552 [1] to provide greater transparency into the size of the physical natural gas market and the use of physical fixed-price and index-based natural gas transactions. This information assists the Commission and the public in assessing whether index prices are the result of a robust market of fixed-price transactions.

FERC Form No. 552 had its genesis in the Energy Policy Act of 2005,[2] which added section 23 of the Natural Gas Act (NGA). Section 23 of the NGA, among other things, directs the Commission ''to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, and the protection of consumers.'' [3]

FERC–549E: Price indices are commonly used in natural gas and electricity wholesale markets. These indices are used by market participants to price their commodities. The Commission set forth standards for price index developers to demonstrate that their internal processes were sufficient to qualify as a Commission-approved price index developer and, thus, have their price indices referenced in Commission-jurisdictional tariffs in its Initial Policy Statement.[4] Price index developers seeking approval voluntarily provide written statements to the Commission to explain how they met these standards. Approval of a price index developer is a factor in whether the Commission approves the use of their indices in Commission-jurisdictional tariffs. After the Initial Policy Statement was issued, thirteen price index developers sought and received approval. The Commission issued a Revised Policy Statement on April 21, 2022, effective on December 31, 2022.[5] Under the Revised Policy Statement, interstate natural gas pipelines and public utilities proposing to use price indices in jurisdictional tariffs are no longer entitled to the rebuttable presumption that a price index developer's price indices produce just and reasonable rates unless the price index developer has obtained approval or re-approval from the Commission within the last seven years. The FERC–549E information collection represents the burden for price index developers to comply with Commission requirements pertaining to information collection and data publication and to seek approval of their index with the Commission and for data providers that submit information to price index developers. Data providers that submit information to price index developers must meet minimum reporting standards, set forth in the Commission's

[1] FERC Form No. 552 is prescribed in 18 CFR 260.401.

[2] Energy Policy Act of 2005, Public Law 109–58, sections 1261 *et seq.,* 119 Stat. 594 (2005).

[3] 15 U.S.C. 717t–2(a)(1)(2006).

[4] 104 FERC ¶ 61,121 (Initial Policy Statement), *clarified, Order on Clarification of Policy Statement on Natural Gas and Electric Price Indices,* 105 FERC ¶ 61,282 (2003) (2003 Clarification Order), *clarified, Order Further Clarifying Policy Statement on Natural Gas and Electric Price Indices,* 112 FERC ¶ 61,040 (2005) (2005 Clarification Order).

[5] *Actions Regarding the Commission's Policy on Price Index Formation and Transparency, and Indices Referenced in Natural Gas and Electric Tariffs* (PL20–3–000) (Revised Policy Statement), April 21, 2022.

Initial Policy Statement and Revised Policy Statement, to benefit from a rebuttable presumption that they have submitted their transactions accurately, timely, and in good faith (also known as the safe harbor policy).[6]

Type of Respondents: Wholesale natural gas market participants (FERC–552), price index data providers and developers (FERC–549E).

Estimate of Annual Burden:[7] The Commission estimates the annual public reporting burden for the information collection as:

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[8]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
FERC–552: Annual Report of Natural Gas Transactions[9]						
Wholesale natural gas market participants	671	1	671	20 hrs.; $2,060	13,420 hrs.; $1,382,260 ..	$2,060
FERC 549E: Price Index Data Providers[10] **and Developers**[11]						
Data providers (and their affiliates) report Next Day Transactions.	76	249	18,924	4 hrs.; $412	75,696 hrs.; $7,796,688 ..	102,588
Data Providers-perform biennial self-audit (not annual).	96	.5	48	80 hrs.; $8,240	3,840 hrs.; $395,520	4,120
Data Providers (and their affiliates) report Next Month Transactions.	70	12	840	4 hrs.; $412	3,360 hrs.; $346,080	4,944
Price Index Developers—code of conduct & confident.; & inform customers.	6	1	6	80 hrs.; $8,240	480 hrs.; $49,440	8,240
Price Index Developers—identify assessed index price vs. calculated.	6	1	6	80 hrs.; $8,240	480 hrs.; $49,440	8,240
Price Index Developers—re-certify every 7 yrs..	6	.14	1	269 hrs.; $27,707 ..	269 hrs.; $27,707	4,618
TOTAL FERC 549E	.....	.....	19,825	.....	84,125; $8,664,875	132,750

Comments Received on 60 Day Comment Period

The Commission received one comment from Public Citizen, Inc. (Public Citizen) regarding FERC–552 and FERC–549E. Public Citizen suggests what it describes as ''needed enhancements'' to reporting under FERC–552 and FERC–549E to address increasing price volatility. Public Citizen proposes revisions to the FERC–552 to increase transparency into the natural gas price index formation process. Specifically, Public Citizen recommends that the Commission: shift from annual to quarterly reporting with geographic hub-level data; require respondents to clearly identify affiliates filing separate reports; and create a publicly accessible electronic information system based on actual transactions.

The requirements related to the FERC–552 and FERC–549E information collections are governed by 18 CFR 260.401 and the Commission's Revised Policy Statement, which include the frequency, content, scope, and availability of the collections.[12] In this information collection renewal proceeding, the Commission is not currently considering changes to these regulations or to the Revised Policy Statement. Because Public Citizen's comment proposes changes to those regulations and/or the Revised Policy Statement, its comments are outside of the scope of this information collection renewal process.

30 Day Notice Comments

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 26, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–06203 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

[6] Initial Policy Statement, 104 FERC ¶ 61,121 at P 37 and Revised Policy Statement, 179 FERC ¶ 61,036 at P 45.

[7] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[8] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $103 per Hour = Average Cost per Response. The hourly cost figure comes from FERC's average annual cost of salary plus benefits in FY25 of $214,093. We believe this estimate is comparable to respondents salaries.

[9] The number of natural gas market participants is based on CY 2024 FERC Form 552 data.

[10] The number of price index data providers is based on CY 2024 FERC Form 552 data.

[11] The number of price index developers is based on the number of entities that received FERC approval after the issuance of the 2022 Revised Policy Statement.

[12] Revised Policy Statement, 179 FERC ¶ 61,036.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–1–000]

Commission Information Collection Activities (FERC–725Z) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comments on the currently approved information collection, FERC–725Z (Mandatory Reliability Standards:

IRO Reliability Standards). There are no changes to the reporting requirements with this information collection. No comments were received on the 60-day notice that ended on March 16, 2026.

DATES: Comments on the collection of information are due April 30, 2026.

ADDRESSES: Send written comments on FERC–725Z to OMB through *https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202603-1902-008.* You can also visit *https://www.reginfo.gov/public/do/PRAMain* and use the drop-down under ''Currently under Review'' to select the ''Federal Energy Regulatory Commission'' where you can see the open opportunities to provide comments. Comments should be sent within 30 days of publication of this notice.

Please submit a copy of your comments to the Commission via email to *DataClearance@FERC.gov.* You must specify the Docket No. (IC26–1–000) and the FERC Information Collection number (FERC–725Z) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- *All other delivery methods:* Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit *https://elibrary.ferc.gov/eLibrary/search.* Once there, you can also sign up for automatic notification of activity in this docket.

FOR FURTHER INFORMATION CONTACT: Kayla Williams, (202) 502–6468. *DataClearance@FERC.gov*

SUPPLEMENTARY INFORMATION:

Title: FERC–725Z (Mandatory Reliability Standards: IRO Reliability Standards).

OMB Control No.: 1902–0276.

Type of Request: Extension to this currently approved information collection.

Abstract: On August 8, 2005, The Electricity Modernization Act of 2005, which is Title XII of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.[1] Under section 215 of the Federal Power Act (FPA) implemented in 18 CFR 40, the Commission requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards,[2] which are subject to Commission review and approval. In 2006, the Commission established a process to select and certify an ERO and, subsequently, certified the North American Electric Reliability Corporation (NERC) as the ERO.[3]

The ERO develops proposed Reliability Standards [4] and, if approved by NERC, submits them to the Commission for review and approval. When the standards are approved by the Commission, the Reliability Standards become mandatory and must be enforced by the ERO, subject to Commission oversight.

NERC established the following IRO standards within FERC–725Z:

IRO–001–4 (Reliability Coordination—Responsibilities) purpose is to establish the responsibility of Reliability Coordinators to act or direct other entities to act. Applicable transmission operator, balancing authority, generator operator and distribution provider shall follow the operating instructions from their reliability coordinator or inform the reliability coordinator why they cannot comply.

IRO–002–7 (Reliability Coordination, Monitoring and Analysis) purpose is to provide system operators with the capabilities necessary to monitor and analyze data needed to perform their reliability functions. The requirements of IRO–002–7 define data exchange capabilities, testing functionality, notifications when those capabilities are not available, monitor status at facilities, and some personnel functions. IRO–002–7 does have a WECC Variance to develop a methodology that creates models for performing operational planning analyses and real-time assessments.

Currently effective IRO–009–2 applicable to reliability coordinators and the purpose of the standard is to prevent instability, uncontrolled separation, or cascading outages that adversely impact the reliability of the interconnection by ensuring prompt action to prevent or mitigate instances of exceeding Interconnection Reliability Operating Limits (IROLs). The standard mandates that a Reliability Coordinator must have operating processes to prevent IROL exceedance and, if an exceedance is predicted, initiate those processes. It also requires them to mitigate exceedances when they occur and coordinate their actions with neighboring Reliability Coordinators in situations where there is a difference in IROLs.

Additionally, regarding data exchange, NERC cites Reliability Standard IRO–010–5 (Reliability Coordinator Data Specification and Collection) and its stated purpose of preventing instability, uncontrolled separation, or cascading outages ''by ensuring the Reliability Coordinator has the data it needs to monitor and assess the operation of its Reliability Coordinator Area.'' In IRO–010–5 required in the standard that the reliability coordinator must specify the data necessary for it to perform its operational planning analyses and provide the specifications to the entities from which it needs data who then must comply with the data request using a mutually agreeable format and security protocols.

IRO–014–3 purpose is to ensure that each Reliability Coordinator's operations are coordinated such that they will not adversely impact other Reliability Coordinator Areas and to preserve the reliability benefits of interconnected operations. IRO–014–3 standard requires Reliability Coordinators (RCs) to coordinate operating procedures and handle emergencies to ensure interconnected operations remain reliable and do not negatively impact neighboring RC areas.

IRO–017–1 (Outage Coordination) purpose is to ensure that outages are properly coordinated in the Operations Planning time horizon and Near-Term Transmission Planning Horizon. IRO–017–1, known as ''Outage Coordination,'' establishes requirements for coordinating generation and transmission outages to maintain bulk electric system reliability. Reliability coordinators, planning coordinators, balancing authorities, transmission owners and transmission planners are applicable entities for IRO–017–1.

[1] The Energy Policy Act of 2005 (EPAct), Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), codified at 16 U.S.C. 824o (2000).

[2] The Federal Power Act (as modified by the EPAct) states ''[t]he terms ''reliability standard'' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.''

[3] North American Electric Reliability Corp., 116 FERC ¶ 61,062, order on reh'g and compliance, 117 FERC ¶ 61,126 (2006), order on compliance, 118 FERC ¶ 61,190, order on reh'g, 119 FERC ¶ 61,046 (2007), aff'd sub nom. *Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[4] The NERC Standard Processes Manual, Appendix 3A of the NERC Rules Of Procedure, (posted at *https://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/SPM_Clean_Mar2019.pdf*) describes the process for developing, modifying, withdrawing, or retiring a Reliability Standard.

IRO–018–1(i) (Reliability Coordinator Real-time Reliability Monitoring and Analysis Capabilities), submitted by North American Electric Reliability Corporation (NERC). IRO–018–1(i) mandates that Reliability Coordinators (RCs) possess real-time monitoring and analysis tools to ensure bulk electric system reliability. This standard, which includes requirements for RCs, aims to enhance system operators' awareness of monitoring tools and data quality. In this order, the Reliability Standards build on monitoring, real-time assessments and support effective situational awareness. The Reliability Standards accomplish this by requiring applicable entities to: (1) provide notification to operators of real-time monitoring alarm failures; (2) provide operators with indications of the quality of information being provided by their monitoring and analysis capabilities; and (3) address deficiencies in the quality of information being provided by their monitoring and analysis capabilities.

NERC observes that the performance of the requirements it cites is premised on the existence of data exchange capabilities, regardless of whether a separate requirement expressly requires the reliability coordinator to have data exchange capabilities in place.

In review this 725Z collection for the IRO Reliability Standards, the number of entities/respondents was checked and broken down into the appliable type of entity for each reliability standard. As we continue to combine various work projects associated with the 725Z collection there was an increase in the number of responses from 953 to 2,687. The increase is largely associated with capturing all the reliability standard applicable entities into this single collection and the single largest contributor was the addition of generator owners in reliability standard IRO–001–4. These adjustments in response count will provide a more accurate representation of all the entities under the 725Z collection. Staff looked at each reliability standard as its own unique project and in doing so eliminated the multiple entity count by making a more accurate representation of the number of responses.

Type of Respondents: Reliability coordinators (RC), Planning Coordinators (PC), Balancing authorities (BA), Transmission Owners (TO), Transmission Planners (TP), Transmission Operators (TOP), Distribution Planners (DP) are included entities for *Estimate of Annual Burden:*[5] The Commission estimates the changes in the annual public reporting burden and cost[6] as follows.

FERC–725Z—Reporting and Recordkeeping Requirements for Reliability Standards IRO–001, IRO–002, IRO–008, IRO–009, IRO–010, IRO–014, IRO–017, and IRO–018

Information collection requirements	Number of respondents & type of entity	Annual number of responses per respondent	Total number of responses	Average burden hours & cost per response ($)	Total annual burden hours & total annual cost ($)	Total annual burden cost
	(1)[7]	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5)/(1)
IRO–001–4	12 (RC)	1	12	24 hrs., $1,524.48	288 hrs., $18,293.76	$1,524.48
	97 (BA)	1	97	4 hrs., $254.08	388 hrs., $24,645.76	254.08
	1,314 (GO)	1	1,314	4 hrs., $254.08	5,256 hrs., $333,861.12	254.08
	298 (DP)	1	298	4 hrs., $254.08	1,192 hrs., $75,715.84	254.08
	166 (TOP)	1	166	12 hrs., $762.24	1,992 hrs., $126,531.84	762.24
IRO–002–7	12 (RC)	1	12	24 hrs., $1,524.48	288 hrs., $18,293.76	1,524.48
IRO–008–3	12 (RC)	1	12	160 hrs., $10,163.2	1,920 hrs., $121,985.4	10,163.2
IRO–009–2	12 (RC)	1	12	12 hrs., $762.24	144 hrs., $9,146.88	762.24
IRO–010–5	12 (RC)	1	12	24 hrs., $1,524.48	288 hrs., $18,293.76	1,524.48
IRO–014–3	12 (RC)	1	12	12 hrs., $762.24	144 hrs., $9,146.88	762.24
IRO–017–1	12 (RC)	1	12	1,200 hrs., $76,224	14,400 hrs., $914,688	76,224
	62 (PC)	1	62	96 hrs., $6,097.92	5,704 hrs., $362,318.08	6,097.92
	211 (TP)	1	211	96 hrs., $6,097.92	20,256 hrs., $1,286,661.12	6,097.92
	337 (TO)	1	337	8 hrs., $508.12	2,696 hrs., $171,249.92	508.12
	97 (BA)	1	97	8 hr., $508.16	776 hrs., $49,291.52	508.16
IRO–018–1(i)	12 (RC)	1	12	34 hrs., $2,159.68	408 hrs., $25,916.16	2,159.68
Total for FERC–725Z			2,678		55,218 hrs., $3,538,599.16	

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 26, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–06204 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

[5] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[6] The estimated hourly cost (salary plus benefits) is a combination of the following categories from the Bureau of Labor Statistics (BLS) website, May 2025 *http://www.bls.gov/oes/current/naics2_22.htm:* 75% of the average of an Electrical Engineer (17–2071) $71.19/hr., × .75 = 53.3925 ($53.39-rounded) ($53.39/hour); and 25% of an Information and Record Clerk (43–4199) $40.51/hr., $40.51 × .25 = 10.1275 ($10.13 rounded) ($10.13/hour), for a total ($53.39 + $10.13 = $63.52/hour).

[7] The NERC Compliance Registry, as of July 11, 2025, identifies the following NERC unique U.S. entities that are subject to mandatory compliance with Reliability Standard IRO–001–4, IRO–002–7, IRO–008–3, IRO–009–2, IRO–010–5, IRO–04–3, IRO–017–1, IRO–018–1(i). The number of respondents below is based on an estimate of the NERC compliance registry US only Unique Entities; for balancing authority, transmission operator (TOP), transmission Planners (TP), distribution planners (DP), generator owner (GO) and reliability coordinator (RC).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3603–018]

City of Aspen; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380, Commission staff reviewed City of Aspen's application for a non-capacity amendment of license for the Ruedi Hydroelectric Project No. 3603 and have prepared an Environmental Assessment (EA) for the project.[1] The licensee proposes to build a 22 by 28-foot powerhouse, add an additional 110 feet of new 30-inch penstock, install a second turbine and generator unit with the capacity of 1.2-megawatts,[2] construct a new 48 by 48-inch, 60-foot concrete tailrace, add a 24-inch diameter bypass line within the powerhouse, and modernize the electrical system. The project is located at the Ruedi Dam and reservoir of the U.S. Department of Interior's Bureau of Reclamation on the Fryingpan River in Pitkin and Eagle counties, Colorado.

The EA contains Commission staff's analysis of the potential environmental effects of the proposed amendment, alternatives to the proposed action, and concludes that the proposed amendment, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–3603) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by April 27, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–3603–018.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202)502–6595 or *OPP@ferc.gov.*

For further information, contact Maryam Akhavan at (202) 502–6110 or *Maryam.Akhavan@ferc.gov.*

(Authority: 18 CFR 2.1.)

Dated: March 26, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–06200 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

[1] The unique identification number for documents relating to this environmental review is EAXX–019–20–000–1753700984.

[2] The proposed increase in capacity is less than the threshold for a capacity amendment (18 CFR 4.201(b) (2025)).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–28–000]

Commission Information Collection Activities (FERC–1005); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–1005: Credit Related Information Sharing Between RTOs/ISOs. There are no proposed changes to the information sharing requirement, but the Commission is removing a one-time information collection that has been completed.

DATES: Comments on the collections of information are due June 1, 2026.

ADDRESSES: Please submit comments via email to *DataClearance@FERC.gov.* You must specify the Docket No. (IC26–28–000) and the FERC Information Collection number (FERC–1005) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- Mail via U.S. Postal Service only, addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- Hand (including courier) delivery to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit *https://elibrary.ferc.gov/eLibrary/search.*

FOR FURTHER INFORMATION CONTACT: Kayla Williams may be reached by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: Credit Related Information Sharing Between RTOs/ISOs.

OMB Control No.: 1902–0325.

Type of Request: Three-year extension of the FERC–1005 information collection requirements with no changes to the on-going reporting requirements.

Abstract: In 2023, FERC issued the Final Rule in Docket No. RM22–13–000 discussing the need for RTOs/ISOs to share credit related information with each other. The credit-related information sharing is intended to reduce the risk of liquidity failures amongst utilities. As described in the Final Rule, the Commission revised section 35.47 of Title 18 of the Code of Federal Regulations to permit credit-related information sharing between organized wholesale electric markets. The rule does not create an information collection that is submitted to FERC, rather it permits the ability to share information between RTOs/ISOs and directs RTOs/ISOs to update their tariff provisions to include processes and procedures to do so. At that time RTOs/ISOs were required to update their tariff provisions to enable credit-related information sharing. This process has been completed, which is why the Commission is removing the burden related to this action. The remaining burden is associated with facilitating the information sharing between entities in accordance with each RTO's/ISO's processes and procedures.

Type of Respondents: RTOs/ISOs.

Estimate of Annual Burden:[1] The Commission estimates the annual public reporting burden for the information collection as:

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[2]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Credit Related Information Sharing (ongoing).	6	2	12	4 hrs.; $408	48 hrs.; $4,896	$916.
Information Collection Activities To Be Removed						
Tariff Provisions Compliance Filing (one-time).	6	1	6	25 hrs.; $2,550	150 hrs.; $15,300	25 hrs.; $2,550.
Total	.....	.....	12	.....	48 hrs.; $4,896.	

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 26, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–06202 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the commission received the following accounting Request filings:

Docket Numbers: AC26–34–000.

Applicants: PECO Energy Company.

Description: PECO Energy Company submits final proposed accounting entries re a transaction consummated on 12/03/2025 with Calpine Mid Merit, LLC.

Filed Date: 3/26/26.

Accession Number: 20260326–5221.

Comment Date: 5 p.m. ET 4/16/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–187–000.

Applicants: 45MG 8me LLC.

Description: 45MG 8me LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/26/26.

Accession Number: 20260326–5169.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EG26–188–000.

Applicants: 301AK 8me LLC.

Description: 301AK 8me LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 3/26/26.

Accession Number: 20260326–5172.

Comment Date: 5 p.m. ET 4/16/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–2370–006.

Applicants: Lackawanna Energy Center LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 3/26/26.

Accession Number: 20260326–5061.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER19–266–004.

Applicants: Invenergy Nelson LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 3/26/26.

Accession Number: 20260326–5057.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER24–2166–003.

Applicants: Invenergy Nelson Expansion LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 3/26/26.

Accession Number: 20260326–5060.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER25–3319–001.

Applicants: Oregon Clean Energy, LLC.

Description: Tariff Amendment: Amendment of Pending Tariff Filing—MBR Tariff to be effective 3/2/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5217.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: EER26–1641–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Pending Filing of Amendment to ISA No. 5067; Queue No. No. AF2–436 to be effective 5/6/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5216.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1921–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA NITSA—(SE Idaho Area) Rev 10 (SA No. 746) to be effective 3/1/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5046.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1922–000.

[1] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[2] The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2026 average cost (for wages plus benefits), $102/hour is used.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA NITSA—(Idaho Falls Power) Rev 8 (SA No. 747) to be effective 3/1/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5047.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1923–000.

Applicants: Salem VA BESS 1 LLC.

Description: § 205(d) Rate Filing: Salem VA BESS 1 LLC MBR Tariff to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5070.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1924–000.

Applicants: Colleen VA BESS 1 LLC.

Description: § 205(d) Rate Filing: Colleen VA BESS 1 LLC MBR Tariff to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5075.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1925–000.

Applicants: Meadow Creek VA BESS 1 LLC.

Description: § 205(d) Rate Filing: Meadow Creek VA BESS 1 LLC MBR Tariff to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5076.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1926–000.

Applicants: Piney River VA BESS 1 LLC.

Description: § 205(d) Rate Filing: Piney River VA BESS 1 LLC MBR Tariff to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5087.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1927–000.

Applicants: Midcontinent Independent System Operator, Inc., Big Rivers Electric Corporation.

Description: § 205(d) Rate Filing: Big Rivers Electric Corporation submits tariff filing per 35.13(a)(2)(iii: 2026–03–26_BREC 50 Basis Point RTO Membership Adder Filing to be effective 6/1/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5103.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EER26–1928–000.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: § 205(d) Rate Filing: ALLETE, Inc. submits tariff filing per 35.13(a)(2)(iii: 2026–03–26_SA 4706 & SA 4707 MN Power-Harmony Group FCA and FSA to be effective 2/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5107.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1929–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: High Impact Load Tariff to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5110.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1930–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4765 Rainbow Energy Marketing and NorthWestern Corp Att AO to be effective 4/1/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5115.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1931–000.

Applicants: Midcontinent Independent System Operator, Inc., International Transmission Company.

Description: § 205(d) Rate Filing: International Transmission Company submits tariff filing per 35.13(a)(2)(iii: 2026–03–26_SA 4711 ITCTransmission-DTE Electric E&P (J2684) to be effective 3/23/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5150.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1932–000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: Amendment to Service Agreement No. 548 to be effective 3/3/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5165.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1933–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 5359; Queue No. AB1–141/AB1–142 to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5179.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1934–000.

Applicants: Oregon Clean Energy, LLC.

Description: Tariff Amendment: Reactive Power Tariff Database Cancellation to be effective 3/31/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5191.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1935–000.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, LLC, Entergy Arkansas, LLC.

Description: § 205(d) Rate Filing: Entergy Arkansas, LLC submits tariff filing per 35.13(a)(2)(iii: 2026–03–26_Entergy Companies Incorporation of Order 864 Language to be effective 3/27/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5195.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1936–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6852; AF1–320 to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5202.

Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: ER26–1937–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 17 to be effective 5/26/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5206.

Comment Date: 5 p.m. ET 4/16/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 26, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06185 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings and Accounting Request filings:

Filings Instituting Proceedings

Docket Numbers: AC26–33–000.

Applicants: Garden Banks Gas Pipeline, LLC.

Description: Garden Banks Gas Pipeline, LLC submits proposed journal entries and request to use Account 439 to make prior period adjustments.

Filed Date: 3/26/26.

Accession Number: 20260326–5099.

Comment Date: 5 p.m. ET 4/2/26.

Docket Numbers: RP26–677–000.

Applicants: Natural Gas Pipeline Company of America LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements—Various Shippers March 25 2026 to be effective 4/1/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5145.

Comment Date: 5 p.m. ET 4/6/26.

Docket Numbers: RP26–678–000.

Applicants: Eastern Gas Transmission and Storage, Inc.

Description: § 4(d) Rate Filing: EGTS—26.03.26 Negotiated Agreements to be effective 4/1/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5035.

Comment Date: 5 p.m. ET 4/7/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR26–31–001.

Applicants: Wisconsin Power and Light Company.

Description: § 284.123(g) Rate Filing: Revisions to Statement of Operating Conditions to be effective 2/1/2026.

Filed Date: 3/25/26.

Accession Number: 20260325–5133.

Comment Date: 5 p.m. ET 4/15/26.

Docket Numbers: RP26–636–001.

Applicants: Equitrans, L.P.

Description: Tariff Amendment: Name Change of HG Energy to Antero 5/1/2026 to be effective 5/1/2026.

Filed Date: 3/26/26.

Accession Number: 20260326–5003.

Comment Date: 5 p.m. ET 4/7/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 26, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06186 Filed 3–30–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 26–266; FR ID 337543]

Notice Debarment; Federal E-Rate Program

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Simon Goldbrener from the federal schools and libraries universal service support mechanism (E-Rate program) and all federal universal service support mechanisms for three years.

DATES: Debarment commences on the date Mr. Goldbrener receives the debarment letter or March 31, 2026, whichever date comes first, and will continue for three years.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher Sova may be contacted by phone at (202) 418–1868 or by email at *Christopher.Sova@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau debars Mr. Goldbrener from the E-Rate program and all federal universal service support mechanisms for three years pursuant to 47 CFR 54.8. Attached is the debarment letter, DA 26–266, which was mailed to Mr. Goldbrener and released on March 31, 2026. The complete text of the notice of debarment is available on the FCC's website at *https://docs.fcc.gov/public/attachments/DA-26-266A1.pdf.*

Federal Communications Commission.

Christopher Sova,

Chief, Investigations and Hearings Division, Enforcement Bureau.

BILLING CODE 6712–01–P

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

March 20, 2026

DA 26-266

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Simon Goldbrener
c/o Jacob Laufer, Esq.
Jacob Laufer, P.C.
65 Broadway, Suite 1005
New York, NY 1006-2553

Re: Notice of Debarment, File No. EB-IHD-24-00036788

Dear Mr. Goldbrener:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) hereby notifies you that, pursuant to section 54.8 of the Commission's rules, you are prohibited from participating in activities associated with or related to the federal schools and libraries universal service support mechanism (E-Rate program) and any other program funded by federal universal service support mechanisms for three years, commencing on either the date of your receipt of this Notice of Debarment or of its publication in the Federal Register, whichever comes first (Debarment Date).[1]

On April 16, 2025, the Bureau sent you a notice of suspension and initiation of debarment proceeding (*Notice of Suspension*) that was published in the Federal Register on April 30, 2025.[2] The *Notice of Suspension* suspended you from participating in or receiving any benefit associated with the E-Rate program as well as any other program funded by federal universal service support mechanisms.[3] It

[1] 47 CFR 54.8 (e), (g); 47 CFR 0.111 (delegating to the Bureau authority to resolve universal service suspension and debarment proceedings). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms, including the E-Rate program. *See Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering Section 54.521 of the universal service debarment rules as Section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

[2] Letter from Christopher J. Sova, Acting Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Simon Goldbrener, Notice of Suspension and Initiation of Debarment Proceeding; 90 Fed. Reg. 17927 (April 30, 2025) (*Notice of Suspension*).

[3] *Id.*

also described the basis for initiating the debarment proceeding against you, the applicable debarment procedures, and the effect of debarment.[4]

As discussed in the *Notice of Suspension*, on February 3, 2020, you pleaded guilty to a wire fraud conspiracy that involved knowingly and willingly devising a scheme to obtain money from the E-Rate program fraudulently.[5] This scheme resulted in the fraudulent award of more than $14 million paid to corporations which in turn paid hundreds of thousands of dollars to you and your co-conspirators for participating in the scheme.[6] You enriched yourself at the expense of the underprivileged children the program was designed to serve by causing the disbursement of millions of dollars for services and equipment that were not provided.[7] Pursuant to section 54.8(c) of the Commission's rules, your conviction of criminal conduct in connection with the E-Rate program is the basis for this debarment.[8]

In accordance with the Commission's debarment rules, you were required to file with the Commission any opposition to the suspension or its scope, or to the proposed debarment or its scope, no later than 30 calendar days from either the date of your receipt of the *Notice of Suspension* or of its publication in the Federal Register, whichever date occurred first.[9] The Commission received no opposition.

For the above reasons, you are debarred from involvement with the E-Rate program for three years from the Debarment Date.[10] During this debarment period, you are excluded from participating in any activities associated with or related to the E-Rate program and any other program funded by federal universal service support mechanisms, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.[11]

Sincerely yours,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Fred Theobald, Universal Service Administrative Company (via e-mail)

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[4] *Id.*

[5] *See United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Judgment in a Criminal Case (S.D.N.Y., filed Dec. 13, 2022) (detailing Simon Goldbrener's plea agreement with the government); *see also Notice of Suspension.*

[6] *See United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Indictment (S.D.N.Y., filed Aug. 27, 2018).

[7] *Notice of Suspension.*

[8] 47 CFR 54.8(c).

[9] *Id.*54.8 (e)(3)–(4). Any opposition had to be filed no later than May 30, 2025.

[10] 47 CFR 54.8(g).

[11] 47 CFR 54.8(a)(1), (d), (g).

[FR Doc. 2026–06206 Filed 3–30–26; 8:45 am]
BILLING CODE 6712–01–C

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 338223]

Sunshine Act Meetings; Deletion of Item From March 26, 2026 Open Meeting

March 26, 2026.

The following item was adopted by the Commission on March 25, 2026 and deleted from the list of items scheduled for consideration at the March 26, 2026, Open Meeting. The item was previously listed in the Commission's Sunshine Notice on Thursday, March 19, 2026.

Item No.	Bureau	Subject
6	MEDIA	*Title:* Amendment of Parts 1, 73, 74 and 76 of the Commission's Rules to Update Rules Applicable to Broadcast Stations (MB Docket No. 24–626); Delete, Delete, Delete (GN Docket No. 25–133) *Summary:* The Commission will consider a Report and Order to update rules for broadcast radio and television stations to reflect current application processing requirements, clarify and harmonize provisions, and remove references to outdated procedures and legacy filing systems.

Authority: This meeting is held, in accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b).

Federal Communications Commission

Marlene Dortch

Secretary.

[FR Doc. 2026–06230 Filed 3–27–26; 4:15 pm]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0161; FR ID 338222]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before June 1, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0161.

Title: Section 73.61, AM Directional Antenna Field Strength Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 1,904 respondents and 1,904 responses.

Estimated Time per Response: 4–50 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 30,124 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.61 require that each AM station using directional antennas to make field strength measurement as often as necessary to ensure proper directional antenna system operation. Stations not having approved sampling systems make field strength measurements every three months. Stations with approved sampling systems must take field strength measurements as often as necessary. Also, all AM stations using directional signals must take partial proofs of performance as often as necessary. The FCC staff used the data in field inspections/investigations. AM

licensees with directional antennas use the data to ensure that adequate interference protection is maintained between stations and to ensure proper operation of antennas.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–06224 Filed 3–30–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1205; FR ID 338161]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before June 1, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–1205.

Title: Section 74.802, Low Power Auxiliary Stations Co-channel Coordination with TV Broadcast Stations.

Form No.: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals and households; business or other for-profit entities; not-for-profit institutions; Federal government; and state, local or tribal government.

Number of Respondents and Responses: 217 respondents and 217 responses.

Estimated Time per Response: 1.0 hour.

Frequency of Response: On occasion reporting requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454.

Total Annual Burden: 217 hours.

Total Annual Cost: $27,125.

Needs and Uses: On June 2, 2014, the Commission released a Report and Order, FCC 14–50, GN Docket No. 12–268, ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions.'' This order adopted a revision to a Commission rule, 47 CFR 74.802(b), to permit low power auxiliary stations (LPAS), including wireless microphones, to operate in the bands allocated for TV broadcasting at revised distances from a co-channel television's contour, and provided LPAS operators to operate even closer to television stations proved that any such operations are coordinated with TV broadcast stations that could be affected by the LPAS operations.

The Commission seeks Office of Management and Budget (OMB) approval for an extension of the currently approved information collection for the coordination process adopted in the Commission's Report and Order, FCC 14–50 for such co-channel operations, in 47 CFR 74.802d(b)(2).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–06227 Filed 3–30–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of General Counsel at (202) 523–5740 or *GeneralCounsel@fmc.gov.*

Agreement No.: 012358–002.

Agreement Name: MOL and ECL Space Charter Agreement.

Parties: Mitsui O.S.K. Lines Ltd., and Eastern Car Liner Ltd.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The amendment removes Nissan Motor Car Carrier Co., Ltd as a party and makes conforming amendments.

Proposed Effective Date: 3/25/2026.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/51.

Agreement No.: 012379–002.

Agreement Name: MOL/LGL Space Charter Agreement.

Parties: Mitsui O.S.K. Lines Ltd., and Liberty Global Logistics LLC.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The amendment removes Nissan Motor Car Carrier Co., Ltd. as a party to the agreement, makes conforming revisions reflecting its removal, and updates the address of Liberty Global Logistics LLC.

Proposed Effective Date: 3/25/2026.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/74.

Dated: March 27, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026–06205 Filed 3–30–26; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the revision of the currently approved information collection project ''Medical Expenditure Panel Survey—Household Component, OMB No. 0935–0118.'' This information collection was previously published in the **Federal Register** on December 30, 2025, and allowed 60 days for public comment. The purpose of this notice is to allow an additional 30 days for public comment.

During the 60-day comment period, AHRQ received three comments. One commenter expressed support for the collection. Another supported inclusion of sleep-related questions and suggested additional items; AHRQ will consider these for future inclusion.

A third commenter supported MEPS but raised concerns about removal of questions on sexual orientation and gender identity, birth control counseling, the ESAQ, and the DCS. AHRQ notes that sexual orientation and gender identity questions were removed pursuant to Executive Order 14168. AHRQ continues to propose removal of the birth control counseling question due to space constraints and other priorities. The ESAQ was a one-time, externally funded supplement and will be released as planned. AHRQ also continues to propose removal of the current DCS due to cost, outdated content, and data quality concerns, while considering future updates or alternative modules.

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

ADDRESSES: Written comments should be submitted to: Margie Shofer, Reports Clearance Officer, AHRQ, by email at *REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.* Find this particular collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Margie Shofer, AHRQ Reports Clearance Officer, 301–427–1696 or by email at *REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project: Medical Expenditure Panel Survey—Household Component

The Medical Expenditure Panel Survey (MEPS), which began in 1996, is a set of large-scale surveys of families and individuals, their medical providers (doctors, hospitals, pharmacies, etc.), and employers across the United States. MEPS collects data on the specific health services that Americans use, how frequently they use them, the cost of these services, and how they are paid for, as well as data on the cost, scope, and breadth of health insurance held by and available to U.S. workers. MEPS data have become the linchpin for economic health care use and expenditures models. These data are vital in estimating the impact of changes in financing, coverage, and reimbursement policy on the U.S. healthcare system. No other survey provides the foundation for estimating the impact of changes in national policy on various segments of the U.S. population. These data continue to be essential for evaluating healthcare reform policies and analyzing the effect of tax code changes on healthcare expenditures and tax revenue.

The MEPS–HC and MPC Have the Following Goals

(1) To produce nationally representative estimates of health care use, expenditures, sources of payment, and health insurance coverage for the U.S. civilian noninstitutionalized population.

(2) To produce nationally representative estimates of respondents' health status, demographic and socio-economic characteristics, employment, access to care, and satisfaction with health care.

Project Overview

Each year a new panel of sample households is selected. Recent annual MEPS–HC sample sizes average about 10,350 households. Data can be analyzed at either the person, family, or event level. The panel design of the survey, which includes 5 Rounds of interviews covering 2 full calendar years, provides data for examining person level changes in selected variables such as expenditures, health insurance coverage, and health status. Using a combination of computer assisted personal interviewing (CAPI), computer assisted video interviewing (CAVI), and self-administered paper and web questionnaires, information about each household member is collected, and the survey builds on this information from interview to interview. CAVI is a newer data collection technology and offers the best of both telephone and in-person interviewing, while offering opportunities for cost savings and more accurate reporting.

Proposed Revisions

This Information Collection Request (ICR) is for a revision to the previously approved information collection—0935–0118 Medical Expenditure Panel Survey—Household Component (MEPS–HC).

These changes will be fielded in the Fall of 2026 and include:

- MEPS–HC Core Interview—Minor changes to twenty-four questions include revising language to make the questions clearer for a better response rate.
- MEPS Preventive Care Self-Administered Questionnaire (PSAQ):
  - Removing four questions on counseling and treatment, one question about birth control, two questions about aspirin use, and two questions about gender.
  - Reverting to the question used in the 2022 PSAQ about respondent sex.
  - Replacing two exercise items with five new items for exercise and strength training.

○ Adding questions about use of sleep medication, trouble getting to sleep, screen time, use of wearable devices, self-assessed diet quality, fruit and vegetable consumption, meals eaten away from home, former smoking, and weight loss attempt.

• Burdens and Economic Impacts of Medical Care Self-Administered Questionnaire (ESAQ) and Diabetes Care Supplement (DCS): Both will be discontinued.

This study is being conducted by AHRQ through its contractors, Westat for the MEPS–HC and RTI for the MEPS–MPC, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care. [42 U.S.C 299a(a)(1) and (2)], and to conduct a survey on the cost, use, and quality of health care [42 U.S.C. 299b–2].

Method of Collection

To achieve the goals of this project the following data collections will be implemented:

Household Component—The MEPS–HC consists of a core interview administered to all sampled households, supplemental interviews administered to selected individuals, permission forms, and a validation interview:

(1) *Core MEPS–HC Interview*—All sampled households are administered the Core MEPS interview which collects health, health insurance, and employment data on all household members.

(2) *Adult Self-Administered Questionnaire (Adult SAQ)*—Completed by all adults 18 and older in the household in rounds 2 and 4 in odd years. Collects a variety of health status and health care quality measures of adults age 18 and older.

(3) *Preventive Care Self-Administered Questionnaire (PSAQ)*—Designed to collect a variety of person-level preventive health care data for adults 18 years and older.

(4) *Authorization Forms for the MEPS–MPC Provider and Pharmacy Survey*—ask respondents for authorization to obtain supplemental information from their medical providers (hospitals, physicians, home health agencies and institutions) and pharmacies.

(5) *MEPS Validation Interview*—Each interviewer is required to have at least 15 percent of his/her caseload validated to ensure that Core questionnaire content was asked appropriately and procedures followed, for example the use of show cards. In excess of this requirement, 100% of MEPS completed interviews undergo validation efforts. Over 50% of cases are validated through the use of Westat's Eagle system which tracks GPS coordinates, matching them to respondent addresses and interview times. Computer Assisted Recorded Interview (CARI) review accounts for roughly 40% of MEPS case validation where EAGLE is not appropriate (CAVI interviews) or is not valid or available. The audio and screen capture from numerous questions is evaluated to ensure an interviewer and a respondent follow proper question administration and show card usage. For cases that cannot be validated using CARI or GPS, phone validations are conducted to ensure proper procedures and administration. Mail validations are used as a final measure when other types of validation have not resulted in a validated case.

Medical Provider Component—The MEPS–MPC is a survey of medical providers, including office-based doctors, hospitals, home health providers, and pharmacies, that collects detailed data on the expenditures and sources of payment for the medical services provided to individuals sampled for the MEPS. Upon completion of the household interview and obtaining permission from the household survey respondents, a sample of medical providers and pharmacies are contacted by telephone to obtain information that household respondents cannot accurately provide. The MPC collects information on dates of visits, diagnosis and procedure codes, charges and payments, and for pharmacies: dates of fills, ndc (or drug name, strength, dosage), quantity and days supplied, and payments. There are no changes to the MPC data collection.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the MEPS–HC and the MEPS–MPC.

MEPS–HC

1. *MEPS–HC Core Interview*—completed by 10,350 ''family level'' respondents. Since the MEPS–HC typically consists of 5 rounds of interviewing covering a full two years of data, the annual average number of responses per respondent is 2.5 responses per year. The MEPS–HC core requires an average response time of 87 minutes to administer.

2. *Adult SAQ*—completed once during the 2-year panel, in rounds 2 and 4 during odd numbered years, making the annualized average 0.5 times per year. The Adult SAQ will be completed by 12,395 adults and requires an average of 7 minutes to complete.

3. PSAQ—completed once during the 2-year panel, in rounds 2 and 4 during even numbered years, making the annualized average 0.5 times per year. The PSAQ will be completed by 12,395 adults and requires an average of 7 minutes to complete.

4. Authorization forms for the MEPS–MPC and Pharmacy Survey—completed by 17,388 individual respondents. Each respondent will complete an average of 3.6 forms each year, with each form requiring an average of 3 minutes to complete.

5. *Validation interview*—conducted with approximately 1,491 respondents each year and requires 5 minutes to complete.

The total annual burden hours for the respondent's time to participate in the MEPS–HC is estimated to be 42,219 hours.

MEPS–MPC

1. *Contact Guide/Screening Call*—conducted with 36,370 providers and pharmacies each year and requires 5 minutes to complete.

2. *Home Health Care Providers Event Form*—completed by 505 providers, with each provider completing an average of 5.66 forms and each form requiring 3 minutes to complete.

3. *Office-based Providers Event Form*—completed by 8,074 providers. Each provider will complete an average of 3.58 forms, and each form requires 3 minutes to complete.

4. *Separately Billing Doctors Event Form*—will be completed by 5,574 providers, with each provider completing 1.13 forms on average, and each form requiring 3 minutes to complete.

5. *Hospital Event Form*—completed by 3,482 hospitals or HMOs. Each hospital or HMO will complete 5.64 forms on average, with each form requiring 3 minutes to complete.

6. *Institutions (non-hospital) Event Form*—completed by 103 institutions, with each institution completing 1.25 forms on average, and each form requiring 3 minutes to complete.

7. *Pharmacy Event Form*—completed by 2,008 pharmacies. Each pharmacy will complete 21.15 forms on average, with each form requiring 3 minutes to complete.

The total burden hours for the respondent's time to participate in the MEPS–MPC is estimated to be 8,045 hours. The total annual burden hours for the MEPS–HC and MPC is estimated to be 50,264 hours.

EXHIBIT 1—MEPS–HC AND MPC ESTIMATED ANNUALIZED RESPONDENTS AND BURDEN HOURS

[2026 to 2028]

Form name	Number of respondents [a]	Number of responses per respondent	Hours per response	Total burden hours
MEPS–HC				
1. MEPS–HC Core Interview	10,350	2.5	87/60	37,519
2. Adult SAQ *	12,395	0.5	7/60	723
3. Preventive Care SAQ (PSAQ) **	12,395	0.5	7/60	723
4. Authorization forms for the MEPS–MPC Provider and Pharmacy Survey	17,388	3.6	3/60	3,130
5. MEPS Validation Interview	1,491	1	5/60	124
Subtotal for the MEPS–HC	54,019			42,219
MEPS–MPC				
1. Contact Guide/Screening Call	36,370	1	5/60	3,031
2. Home Health Care Providers Event Form	505	5.66	3/60	143
3. Office-based Providers Event Form	8,074	3.58	3/60	1,445
4. Separately Billing Doctors Event Form	5,574	1.13	3/60	315
5. Hospitals & HMOs (Hospital Event Form)	3,482	5.64	3/60	982
6. Institutions (non-hospital) Event Form	103	1.25	3/60	6
7. Pharmacies Event Form	2,008	21.15	3/60	2,123
Subtotal for the MEPS–MPC	56,116			8,045
Grand Total	110,135			50,264

* The Adult SAQ is completed once every two years, on the odd numbered years.
** The PSAQ is completed once every two years, on the even numbered years.

Exhibit 2 shows the estimated annual cost burden associated with the respondents' time to participate in this information collection. The annual cost burden for the MEPS–HC is estimated to be 2,757,745 and the annual cost burden for the MEPS–MPC is estimated to be 350,960. The total annual cost burden for the MEPS–HC and MPC is estimated to be 3,108,705.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Total burden hours	Average hourly wage rate *	Adjusted hourly wage rate **	Total cost burden
MEPS–HC				
1. MEPS–HC Core Interview	37,519	[a] 32.66	65.32	2,450,741
2. Adult SAQ *	723	[a] 32.66	65.32	47,226
3. Preventive Care SAQ (PSAQ) **	723	[a] 32.66	65.32	47,226
4. Authorization forms for the MEPS-MPC Provider and Pharmacy Survey	3,130	[a] 32.66	65.32	204,452
5. MEPS Validation Interview	124	[a] 32.66	65.32	8,100
Subtotal for the MEPS–HC	42,219			2,757,745
MEPS–MPC				
1. Contact Guide/Screening Call	3,031	[b] 21.91	43.82	132,818
2. Home Health Care Providers Event Form	143	[b] 21.91	43.82	6,266
3. Office-based Providers Event Form	1,445	[b] 21.91	43.82	63,320
4. Separately Billing Doctors Event Form	315	[b] 21.91	43.82	13,803
5. Hospitals & HMOs (Hospital Event Form)	982	[b] 21.91	43.82	43,301
6. Institutions (non-hospital) Event Form	6	[b] 21.91	43.82	263
7. Pharmacies Event Form	2,123	[c] 21.54	43.08	91,459
Subtotal for the MEPS–MPC	8,045			350,960
Grand Total	50,264			3,108,705

* National Compensation Survey: Occupational wages in the United States May 2024, "U.S. Department of Labor, Bureau of Labor Statistics."
** The Adjusted Hourly Rate was estimated at 200% of the hourly wage.
[a] Mean hourly wage for All Occupations (00–0000).
[b] Mean hourly wage for Medical Secretaries (43–6013).
[c] Mean hourly wage for Pharmacy Technicians (29–2052).

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Jeffrey Toven,

Executive Officer.

[FR Doc. 2026–06193 Filed 3–30–26; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10752]

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 June 1, 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 Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Submission of 1135 Waiver Request Automated Process; *Use:* This is a revision of an information collection request approved under Office of Management and Budget (OMB) control number of 0938–1384 with an expiration date of August 31, 2026. The Acute Hospital Care at Home (AHCAH) program will no longer be included in this package.

Waivers under Section 1135 of the Social Security Act (the Act) and certain flexibilities allow the CMS to relax certain requirements, known as the Conditions of Participation (CoPs) or Conditions of Coverage to promote the health and safety of beneficiaries. Under Section 1135 of the Act, the Secretary may temporarily waive or modify certain Medicare, Medicaid, and Children's Health Insurance Program (CHIP) requirements to ensure that sufficient health care services are available to meet the needs of individuals enrolled in Social Security Act programs in the emergency area and time periods. These waivers ensure that healthcare entities/caregivers who provide such services in good faith can be reimbursed and exempted from sanctions.

During emergencies, CMS must be able to apply program waivers and flexibilities under section 1135 of the Social Security Act, in a timely manner to respond quickly to unfolding events. In a disaster or emergency, waivers and flexibilities assist health care providers/suppliers in providing timely healthcare and services to people who have been affected and enables states, Federal districts, and U.S. territories to ensure Medicare and/or Medicaid beneficiaries have continued access to care. During disasters and emergencies, it is not uncommon to evacuate patients in health care facilities to other provider settings or across state lines, especially, during hurricane, wildfire, and tornado events. CMS must collect relevant information for which a provider is requesting a waiver or flexibility to

make proper decisions about approving or denying such requests. Collection of this data aids in the prevention of gaps in access to care and services before, during, and after an emergency. CMS must also respond to inquiries related to a Public Health Emergency (PHE) from providers. CMS is not collecting information from these inquiries; we are merely responding to them.

The collection of the information surrounding 1135 Waiver requests/inquiries is based on a case-by-case basis and not regularly scheduled (*e.g.,* quarterly, annually, by all providers/suppliers). The collection of information only occurs when the healthcare entity, impacted by an emergency, is requesting waivers/flexibilities under Section 1135 of the Act or inquiring about PHEs. The collection of information is also dependent on provider types; therefore, it is not a collection for all Medicare-participating facilities.

In 2021, we implemented a streamlined, automated process to standardize the 1135 waiver requests and inquiries submitted based on lessons learned during the COVID–19 PHE.

Furthermore, the normal operations of a healthcare provider are disrupted by emergencies or disasters occasionally. When this occurs, State Survey Agencies (SA) or Health Care Providers deliver a provider/beneficiary tracking report regarding the current status of all affected healthcare providers and their beneficiaries. This report includes demographic information about the beneficiary status, provider, their operational status, anticipated needs and planned resumption of normal operations. This information is provided whether or not a PHE has been declared.

We are enhancing this information collection to better support emergency response by capturing the emergency date, simplifying ongoing status updates for stakeholders, and providing a more comprehensive view of cybersecurity incidents through expanded reporting on patient and operational impacts. This automated process will continue to consist of a public facing web form as well as a process for SAs/Providers to submit data using extracts (CSV or Excel) on emergent events impacting Health Care Facilities via an automated mail handler system. Both processes (public facing web form and extracts via an automated mail handler system) are known as the Health Care Facility (HCF) Operational Status. *Form Number:* CMS–10752 (OMB control number: 0938–1384); *Frequency:* Occasionally; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions and State, Local or Tribal Governments; *Number of Respondents:* 4,829; *Total Annual Responses:* 4,829; *Total Annual Hours:* 4,016. (For policy questions regarding this collection, contact Adriane Saunders at 404–562–7484.)

William N. Parham, III,

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

[FR Doc. 2026–06170 Filed 3–30–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0345]

Submission for OMB Review; TANF Financial Report, ACF–196T

AGENCY: Office of Family Assistance, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the Temporary Assistance for Needy Families (TANF) Financial Report, Form ACF–196T (Office of Management and Budget (OMB) #: 0970–0345, expiration date: March 31, 2026. ACF is not proposing updates to the form but is proposing significant updates to streamline and improve the instructions. While the substance of the instructions remains the same, they are easier to read, with review time reduced by an estimated 33 percent.

DATES: *Comments due* April 30, 2026.

ADDRESSES: The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202603-0970-014.* You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Grantees of the TANF program are required by statute to report financial data on a quarterly basis. Form ACF–196T is used by tribal agencies administering the TANF program to report these quarterly expenditure data and to request quarterly grant funds. Failure to collect the data would seriously compromise the Office of Family Assistance and ACF's ability to monitor TANF expenditures and compliance with statutory requirements. These data are also needed to estimate outlays and to prepare reports and budget submissions for Congress. The instructions have been edited for clarification and general improvements for respondents.

Respondents: Tribal agencies receiving a direct grant from OFA to administer a TANF program.

Annual Burden Estimates

Based on the edits to the instructions, the estimated time per response has been reduced 33 percent, from 1.5 hours to 1 hour. The number of agencies has been reduced to reflect current grant recipients. Overall, annual burden estimates have decreased from 306 hours to 200 hours.

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
TANF Financial Report, Form ACF–196T	50	4	1.0	200

Authority: Social Security Act, Section 409 & 411; 45 CFR 286.245–286.285.

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–06179 Filed 3–30–26; 8:45 am]

BILLING CODE 4184–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Assistance Listing Number: 93.568]

Proposed Reallotment of Fiscal Year 2025 Funds for the Low Income Home Energy Assistance Program

AGENCY: Office of Community Services (OCS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice for public comment.

SUMMARY: The ACF OCS announces a preliminary determination that funds from the federal fiscal year 2025 (FY25) Low Income Home Energy Assistance Program (LIHEAP) are available for reallocation to states, territories, tribes, and tribal organizations that received FY26 direct LIHEAP awards. The purpose of this proposed action is to redistribute FY25 annual LIHEAP funds and FY24 and FY25 Infrastructure Investment and Jobs Act (IIJA) funds that recipients were unable to obligate or carry over to FY26. No subrecipients of these recipients or other entities may apply for these funds.

DATES: Comments are due April 30, 2026.

ADDRESSES: Comments may be submitted to: Kate Thomas, Senior Advisor, Office of Community Services, 330 C Street SW, 5th Floor, Mail Room 5425, Washington, DC 20201. Telephone: 202–690–5737; email: *kate.thomas@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Kate Thomas, Senior Advisor, Office of Community Services, 330 C Street SW, 5th Floor, Mail Room 5425, Washington, DC 20201. Telephone: 202–690–5737; email: *kate.thomas@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Based on a review of FY25 Quarter 3 (Q3) reports and the Carryover and Reallotment Reports (CRR), which include information on unobligated balances, ACF has determined that $2,697,089 of FY25 LIHEAP funds will be available for reallotment for FY26. In addition, $484,019.07 in IIJA funds will be reallotted. The total of the two combined is $3,181,108.07. LIHEAP recipients submitted the FY25 Q3 reports and FY25 CRRs to OCS in accordance with the requirements of 45 CFR 96.81(b).

The LIHEAP statute allows recipients who have funds unobligated at the end of the FY to request permission to carry over up to 10 percent of their full-year allotments to the next FY (42 U.S.C. 8626(b)(2)). Funds in excess of this amount must be returned to the U.S. Department of Health and Human Services and are subject to reallotment under 42 U.S.C. 8626(b)(1).

In accordance with 42 U.S.C. 8626(b)(1)(B), beginning the week of August 25, 2025, ACF began outreach to each of the 35 recipients with unobligated block grant funds above their carryover caps according to their Q3 reports and CRR, and 60 recipients that had IIJA funds about the carryover caps. Using emails and phone calls, ACF informed each recipient of the amount that, according to the recipients' reports, the recipient needed to obligate before September 30, 2025, or would need to return for de-obligation and redistribution to FY26 recipients as part of the reallotment. ACF conducted outreach the week of February 2, 2026, to finalize these reallotment amounts based on Q3 reports and CRR information.

All LIHEAP recipients who receive a portion of these funds will be notified of the final reallotment amount redistributed to them for FY26. This decision will also be published in the **Federal Register**.

The FY25 LIHEAP funds ACF preliminarily expects to become available for reallotment determination, come from the following recipients in the following amounts:

Name of recipient that has block grant funds to be returned for reallotment	Preliminary amount available for reallotment [1]
Alaska	$258,497
Absentee Shawnee Tribe	2,478
Alabama-Quassarte Tribal Town	12,595
Sitka Tribe Of Alaska	25,391
Ponca Tribe Of Oklahoma	26,304
Karuk Tribe of California	32,265
Kalispel Indian Community of the Kalispel Reservation	5,284
Sac & Fox Nation	2,792
Nanticoke Lenni-Lenape Indians of NJ,	50,587
Hoh Indian Tribe	5,114
Salt River Pima-Maricopa Indian Community	5,052
Kickapoo Tribe of Oklahoma	2,828
Monacan Indian Nation	20,195
Mississippi Band of Choctaw Indians	15,976
Nooksack Tribe	5,441
Poarch Band of Creek Indians	49,986
Standing Rock Sioux Tribe	638,197
Mowa Band of Choctaw Indians	88,421
Pleasant Point Indian Reservation	122,023
Confederated Tribes Of Warm Springs Reservation Of Oregon	77,481
Inter Tribal Council of Michigan Inc	9,495
Jicarilla Apache Nation	19,004
White Mountain Apache	101,103
Colorado River Indian Tribes	947
Northern Arapaho Tribe	16,828
Oglala Sioux Tribe	369,377
Eastern Shoshone Tribe	70,093
Paiute Indian Tribe of Utah	11,991
Confederated Tribes and Bands of Yakama Nation	118,386
Three Affiliated Tribes	376,883

Name of recipient that has block grant funds to be returned for reallotment	Preliminary amount available for reallotment [1]
Northern Cheyenne Tribe	42,986
Lower Elhwa Tribal Community Council	15,720
Muckleshoot Indian Tribe	43,980
Pueblo of Jemez	13,343
Chuathbaluk	40,046
Total	2,697,089

[1] Preliminary funds identified for reallotment are based on amounts reported as unobligated and in excess of LIHEAP's 10 percent carryover cap by 35 recipients, as reflected in either the FY25 Quarter 3 (Q3) report or the Carryover and Reallotment Report (CRR). These figures are subject to further reconciliation by OCS using recipients' Federal Financial Reports (FFRs), CRRs, and PMS data. Final reallotment amounts may change following reconciliation.

Name of recipient that has IIJA funds to be returned for reallotment	Preliminary amount available for reallotment [1]
United Cherokee Ani-Yun Wiya Nation	$936.20
State of Alaska Department of Health	278,613
Chuathbaluk Traditional Council	569.80
Kenaitze Indian Tribe	1.90
Sitka Tribe of Alaska	1,995.60
Cocopah Tribe	467.10
San Carlos Apache Tribe	2,872.50
White Mountain Apache Tribe	4,103.00
Berry Creek Rancheria	166.50
Enterprise Rancheria	63.90
Hopland Band	174.60
Karuk Tribe	1,733
Riverside-San Bernardino Indian Health	1,147.70
Round Valley	738.10
Southern Indian Health Council	147.60
Aroostook Band of Micmac Indians	4,490.60
Houlton Band of Maliseet Indians	4,490.60
Grand Traverse Ottawa/Chippewa Band	596.70
Inter-Tribal Council of Michigan	2,268.20
Pokagon Band of Potawatomi Indians (also in Indiana)	4,095.40
Mississippi Band of Choctaw Indians	1,506.80
Assiniboine & Sioux Tribes (Fort Peck)	3,950.10
Blackfeet Tribe	27,103.00
Confederated Salish and Kootenai	25,766
Chippewa-Cree Tribe	20.70
Fort Belknap Community	9,371.00
Nanticoke Lenni-Lenape Tribal Nation	2,498.00
Jicarilla Apache Tribe	264.33
Pueblo of Jemez	296.10
Pueblo of Laguna	1,153.90
Pueblo of Nambe	211.50
Eastern Band of Cherokee Indians	2,289.00
Three Affiliated Tribes (Fort Berthold)	27,676.40
Absentee Shawnee Tribe	170.20
Comanche Indian Tribe	2,239.60
Delaware Tribe of Indians	720.10
Fort Sill Apache Tribe	88.20
Kiowa Indian Tribe	1,351.10
Osage Tribe	3,287.30
Otoe-Missouria Tribe	203.50
Pawnee Tribe	805.60
Ponca Tribe	4,435.90
Quapaw Tribe	607.60
Sac & Fox Tribe of Oklahoma	3,261.88
United Keetoowah	5,741.00
Klamath Tribe	3,907.80
Narragansett Indian Tribe	851.50
Oglala Sioux Tribe	7,258.28
Paiute Indian Tribe of Utah	2,662.50
Colville Confederated Tribes	7,340.98
Jamestown S'Klallam Tribe	226.80
Makah Indian Tribe	1,790.10
Muckleshoot Indian Tribe	819.00
Nooksack Indian Tribe	630.00
Quinault Tribe	1,991.70
Swinomish Indians	970.20
Yakama Indian Nation	8,244.00
Eastern Shoshone of the Wind River	4,713.80

Name of recipient that has IIJA funds to be returned for reallotment	Preliminary amount available for reallotment [1]
Northern Arapaho Nation	7,860.60
Total	484,019.07

[1] Reallotment amounts were calculated by subtracting the allowable 10 percent carryover from each grant recipient's IIJA fund balance in the Payment Management System (PMS). These figures include IIJA funds from both FY 2024 and FY 2025 and reflect amounts from 60 grant recipients. Karuk, Nanticoke, and Sac & Fox are the only grant recipients returning IIJA funds from both FY 2024 and FY 2025. Modoc Tribe of Oklahoma did not receive funding in FY 2026 and is not eligible for reallotment.

If funds are reallotted, then they will be allocated in accordance with 42 U.S.C. 8623 and must be treated by LIHEAP recipients that receive them as funds appropriated for FY26. As FY26 funds, they will be subject to all requirements of the LIHEAP statute, including 42 U.S.C. 8626(b)(2), which requires that a recipient obligate at least 90 percent of its total block grant allocation for a FY by the end of the FY for which the funds are appropriated; that is, by September 30, 2026. Furthermore, recipients who receive these funds may use them for any purpose authorized under LIHEAP and must add them to their total LIHEAP funds payable for FY26 to calculate statutory caps on administrative costs, carryover, Assurance 16 activities, and weatherization assistance.

Additionally, all recipients of these funds must (1) ensure that these funds are included in the amounts on Lines 1.1 of their FY26 CRRs; (2) reconcile these funds, to the extent that they received them, on their corresponding FFRs; and (3) record, on their FY26 Household Reports, households that receive benefits at least partly from these funds. State recipients must also ensure that these funds are included in the Grantee Survey sections of their FY26 LIHEAP Performance Data Forms.

Statutory Authority: 42 U.S.C. 8626(b).

Elizabeth Leo,

Grants Policy Branch Chief, Office of Grants Policy, Office of Administration.

[FR Doc. 2026–06130 Filed 3–30–26; 8:45 am]

BILLING CODE 4184–80–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–2476]

Advancing the Use of Digital Health Technologies in Clinical Investigations for Drugs and Biological Products; Request for Information and Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; Request for information and comments.

SUMMARY: Digital health technologies (DHTs) used for remote data acquisition are playing a growing role in health care and offer important opportunities in clinical research. As outlined in the sixth reauthorization of the Prescription Drug User Fee Act (PDUFA VII) included as part of the FDA User Fee Reauthorization Act of 2022, the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) have committed to supporting the use of DHTs in drug and biological product development. To inform potential FDA activities in this area, CDER and CBER are requesting information to better understand the opportunities and challenges sponsors and other interested parties face in making innovative use of DHTs in clinical investigations of drugs and biological products.

DATES: Either electronic or written comments must be submitted by June 1, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 1, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand Delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2026–N–2476 for ''Advancing the Use of Digital Health Technologies in Clinical Investigations for Drugs and Biological Products; Request for Information and Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in

its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Elizabeth Kunkoski, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 51, Rm 3332, Silver Spring, MD 20993, 301–796–6439, *DHTsforDrugDevelopment@fda.hhs.gov;* or Mark Walderhaug, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 5270, Silver Spring, MD 20993–0002, 240–402–8812 *CBER-DHTRT@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

DHTs are systems that use computing platforms, connectivity, software, and/or sensors for health care and related uses. DHTs include technologies such as wearable, implantable, ingestible, and contactless sensors. To advance the use of DHTs in drug and biological product development and review, as part of PDUFA VII, FDA committed to establishing a framework to guide the use of DHT-derived data in regulatory decision-making for drugs and biological products.

CDER and CBER's *Framework for the Use of DHTs in Drug and Biological Product Development* (March 2023) describes plans for demonstration projects, public meetings, guidance development and establishment of the DHT steering committee. Additionally, FDA's December 2023 guidance entitled *Digital Health Technologies for Remote Data Acquisition in Clinical Investigations* (2023 DHT Guidance) outlines recommendations intended to facilitate the use of DHTs in clinical investigations, as appropriate, for the evaluation of medical products. These recommendations include selection of suitable DHTs, verification and validation of DHTs, and use of DHTs to collect data for clinical investigation endpoints.

Since the publication of the 2023 DHT Guidance, there have been considerable advances in technology that may be used in clinical investigations. The range of sensors and the clinical features they can measure has expanded. Many of these sensors are present in smartwatches and mobile phones and may be customized using mobile applications (apps) for clinical investigations. Apps and other DHTs are being designed to perform interactive clinical tests of patient function. Examples include dynamometers to measure strength, apps to measure coordination and fine motor skills, and accelerometers to measure balance during specified tasks. Besides mechanical tasks, screen-based technologies are being explored to test neuropsychiatric functions such as reaction time, cognition, vision, hearing and to evaluate conditions such as autism or post-traumatic stress disorder. CDER and CBER are looking for ways to encourage the use of digitally derived endpoints based on these novel technologies in clinical investigations.

In addition, DHTs are being designed specifically for pediatric use and may play a role in evaluating new drugs and biological products in children. Gamification is a promising strategy to engage children in interactive clinical tests. Machine learning is also playing an increased role in the development of algorithms for DHTs to measure clinical features. Further opportunities for the innovative use of DHTs in clinical investigations remain.

Given the expanding technological opportunities for the use of DHTs in clinical drug and biological product development, we are seeking public feedback on the opportunities and challenges that sponsors, and other interested parties are experiencing in the use of DHTs in clinical investigations of drugs and biological products. The information and comments received in response to this notice will inform the development of guidance documents, and other Agency activities to support the appropriate use of DHTs in clinical investigations of drugs and biological products.

II. Request for Information and Comments

Considering the progress around the use of DHTs in drug and biological product development and the potential application of these technologies as described above, CDER and CBER are requesting information and comments on the questions below.

1. What regulatory challenges do DHT manufacturers, sponsors or other interested parties face regarding the use of DHTs in clinical investigations of drugs and biological products?

2. What opportunities are there for CDER and CBER to support and facilitate the adoption of DHTs in clinical investigations of drugs and biological products?

3. What areas of guidance would support the use of DHTs in clinical investigations?

4. What specific DHT related topics, such as digitally derived endpoints in certain disease areas, would benefit from discussion in a public workshop?

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06184 Filed 3–30–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–5933]

Notice of Decision on a Hearing Request Regarding a Proposal To Refuse To Approve a New Drug Application for TRADIPITANT Capsules

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of its decision on a request for a hearing regarding the proposal of FDA's Center for Drug Evaluation and Research (CDER) to refuse to approve a new drug application (NDA) 218489, submitted by Vanda Pharmaceuticals, Inc. (Vanda), for TRADIPITANT capsules (85 mg) with the proposed indication for ''the treatment of [symptoms of] or [nausea in] in gastroparesis'' (''symptoms of gastroparesis''). The decision is available in the docket identified by the

number in brackets in the heading of this document.

DATES: The decision was submitted to the docket on March 26, 2026.

FOR FURTHER INFORMATION CONTACT: Rachael Vieder Linowes, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4206, Silver Spring, Maryland 20993, 240–402–5931.

SUPPLEMENTARY INFORMATION:

I. Background

On September 18, 2023, Vanda submitted NDA 218489 for TRADIPITANT capsules, 85 milligrams (mg), pursuant to section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)) with the proposed indication for ''the treatment of [symptoms of] or [nausea in] in gastroparesis'' (''symptoms of gastroparesis''). TRADIPITANT is a selective neurokinin-1 (NK–1) receptor antagonist.

On September 18, 2024, the Office of Immunology and Inflammation (OII) in CDER issued a complete response letter (CRL) to Vanda under 21 CFR 314.110, stating that NDA 218489 could not be approved in its present form. The CRL described specific deficiencies and, where possible, recommended ways that Vanda might remedy those deficiencies. On November 25, 2024, Vanda indicated that it wished to receive approval of its application or a notice of opportunity for a hearing (NOOH). On January 7, 2025, CDER sent Vanda a NOOH and proposal to refuse approval of TRADIPITANT to treat gastroparesis, which was then published in the **Federal Register** on January 16, 2025 (90 FR 4748).

On January 28, 2025, Vanda provided a notice of participation and request for a hearing. On March 17, 2025, Vanda submitted documentation and analysis in support of a request for summary judgment, or alternatively, a hearing. On July 18, 2025, CDER submitted a Proposed Order denying Vanda's request for a hearing, and on September 17, 2025, Vanda submitted its reply to CDER's Proposed Order.

After considering the parties' submissions, on March 26, 2026, FDA issued a decision regarding Vanda's request for a hearing on CDER's proposal to refuse to approve NDA 218489.

II. Docket Access

For access to the docket to read the final decision and other documents pertaining to this matter, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06187 Filed 3–30–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Black Lung Clinics Program Performance Measures, OMB No. 0915–0292—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than June 1, 2026.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Black Lung Clinics Program Measures, OMB No. 0915–0292—Revision

Abstract: The Black Lung Clinics Program (BLCP) is authorized under Sec. 427(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 937(a)) and accompanying regulations (42 CFR part 55a). The purpose of the BLCP is to reduce the morbidity and mortality associated with occupationally related coal mine dust lung disease through the screening, diagnosis, and treatment of active, inactive, retired, and/or disabled coal miners. HRSA currently collects information about BLCP awards using an OMB-approved set of performance measures and seeks to revise the approved collection. The proposed changes are a result of keeping this instrument relevant, responsive to the BLCP needs, and to improve clarity and ease of reporting for respondents.

Need and Proposed Use of the Information: HRSA has revised the performance measures, in which BLCP awardees will submit to HRSA on an annual basis. The purpose of the revised data collection is to assess BLCP awardees' progress toward meeting BLCP program goals (as stated in the authorizing statute) and how well each awardee is meeting the needs of these miners in their communities. The proposed changes include deleting five questions, adding three new questions, and changing three existing questions. These updates were made to streamline data collection and improve usability. Clinical diagnosis fields will be consolidated into a single datapoint, replacing separate fields for primary, secondary, and other diagnoses. The difference between these categories was often subjective, limiting HRSA's ability to use the data to monitor for black lung rates. Filling out three separate questions about diagnoses was also burdensome for clinics. Additionally, COVID-related data fields are removed due to decreased relevance, reducing the reporting burden on awardees. A new cardiology diagnosis field is added to better capture conditions closely linked to pulmonary disease and assist HRSA in tracking population needs and making relevant programmatic updates based on those needs. Benefits counseling measures are also enhanced to collect filing dates and case status details. This update will help HRSA track case timelines, which translates to better monitoring of implementation of benefits counseling services. These changes strengthen HRSA's monitoring and assessment of the impact of the BLCP program and ensure that funds are effectively used to provide services that meet the target population's needs. There is no change in the burden hours.

Likely Respondents: Respondents will be the BLCP award recipients.

Burden Statement: Burden in this context means the time expended by

persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Black Lung Clinics Program Performance Measures	15	1	15	7	105
Total	15	1	15	7	105

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–06188 Filed 3–30–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AI–25–018: Mucosal Immunology Studies Team (MIST) (U01).

Date: April 20, 2026.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–9295, *mooremar@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIH Health Services and Systems: Career Development Award Grant Review.

Date: April 24, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Claudio Dario Ortiz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 869–9245, *claudio.ortiz@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Respiratory Topics.

Date: April 24, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Hangyi Yan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–2061, *Hannah.Yan@NIH.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cell Signaling and Molecular Endocrinology Study Section.

Date: April 24, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Andrew M. Wolfe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, *andrew.wolfe@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Biomarkers, Immunotherapy, and Biospecimen Science Technologies.

Date: April 24, 2026.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Robert F. Gahl, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276–7869, *robert.gahl@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Data Management, Analysis, Informatics and Digital Health A.

Date: April 24, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rhoda Keese Moise, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (304) 594–0702 *rhoda.moise@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Vascular and Hematological Systems, Surgical Sciences, Biomedical Imaging, and Bioengineering.

Date: April 24, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dmitri V. Gnatenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309 *gnatenkod2@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Cardiovascular and Pulmonary Research Career Development Awards.

Date: April 24, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dan Yu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–1081, *dan.yu@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Immunology and Infectious Diseases.

Date: April 24, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Noton K. Dutta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 669–2857, *noton.dutta@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–243: NCI Research Specialist (Core-based Scientist) Award (R50).

Date: April 24, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *laityjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Early-Stage Clinical Trials towards Ophthalmological Therapies.

Date: April 24, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Aurea D De Sousa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, Bethesda, MD 20892, (301) 827–6829 *aurea.desousa@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Clinical Care and Health interventions.

Date: April 24, 2026.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Karen Nieves Lugo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–1366, *karen.nieveslugo@nih.gov*.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Basic Mechanisms of Cancer Health Disparities Study Section.

Date: April 24, 2026.

Time: 11:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Wing-hang Tong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (302) 402–0360, *tongw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 27, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06226 Filed 3–30–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Vascular and Hematological Systems, Surgical Sciences, Biomedical Imaging, and Bioengineering.

Date: April 23, 2026.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Courtney Elaine Watkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3093, *courtney.watkins2@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: BRAIN Initiative: Theories, Models and Methods for Analysis of Complex Data from the Brain.

Date: April 23–24, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Lai Yee Leung, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011D, Bethesda, MD 20892, (301) 827–8106, *leungl2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–25–035: Influenza Transmission Research Consortium.

Date: April 23–24, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in HIV Molecular Virology, Cell Biology, and Drug Development.

Date: April 23, 2026.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Barry J. Margulies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 761–7956, *barry.margulies@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mentored

Career Development Awards: Epidemiology and Population Sciences Panel A.

Date: April 23–24, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Magnus A. Azuine, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4645, *magnus.azuine@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; High Impact, Interdisciplinary Science in NIDDK Research Areas and Advancing Research on the Application of Digital Health Technology to the Management of Type 2 DM Study Section Meeting.

Date: April 23, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dawanna James-Holly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–2776, *dawanna.james-holly@nih.gov*.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: April 23–24, 2026.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIAID New Innovators Awards (DP2 Clinical Trial Not Allowed).

Date: April 23, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kristina S. Wickham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 761–5390, *kristina.wickham@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immune Oncology Research (R21).

Date: April 23, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Zhiqiang Zou, Ph.D., MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276–6372, *zouzhiq@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–25–444: Cancer Center Support Grant.

Date: April 23–24, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Eun Ah Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3591, *EunAh.Cho@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Immunology and Infectious Diseases.

Date: April 23, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Caitlin Elizabeth Angela Moyer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443–4577, *caitlin.moyer@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Biochemistry and Biophysics.

Date: April 23–24, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276–7975, *chufanee@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 26, 2026

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06146 Filed 3–30–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Addition of Preclearance Facility at Billy Bishop Toronto City Airport

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) has opened an additional preclearance facility in Toronto, Ontario, Canada, at the Billy Bishop Toronto City Airport. Preclearance operations allow CBP to inspect and admit travelers and their goods to the United States prior to boarding in a foreign location, creating opportunities for increased security and efficiency. Preclearance enables travelers and their baggage to complete immigration, customs, and agriculture inspections by CBP officers and specialists in a foreign location before boarding a direct flight to the United States, generally eliminating the need for additional CBP (or other U.S. agency) processing or security screening upon arrival.

DATES: The Billy Bishop Toronto City Airport preclearance operations began on March 10, 2026.

FOR FURTHER INFORMATION CONTACT: Joshua Serian, Office of Field Operations, U.S. Customs and Border Protection, 202–713–8649 or *Joshua.Serian@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

A. Preclearance Operations

CBP preclearance operations have been in existence since 1952.[1] Preclearance facilities are established through the cooperative efforts of CBP, foreign government representatives, and local facility authorities, through signed bilateral treaties known as preclearance agreements.

Each facility is staffed with CBP officers responsible for conducting inspections and examinations in connection with preclearing passengers, crew, and their goods bound for the

[1] *See https://transportgeography.org/contents/chapter6/airport-terminals/pre-clearance-airports-united-states/* (last visited February 10, 2026).

United States. Generally, travelers who are inspected at a preclearance facility are permitted to arrive at a U.S. domestic facility and exit the U.S. domestic terminal upon arrival, or connect directly to a U.S. domestic flight, without further CBP processing.

Preclearance facilities primarily serve to identify known and unknown threats to U.S. national security before arrival into the United States, thereby relieving congestion at federal inspection facilities in the United States, and enhance security in the air environment through the screening and inspection of travelers prior to their arrival in the United States. *See* 19 CFR 162.8. In Fiscal Year (FY) 2025, over 22 million aircraft travelers were processed at preclearance facilities. This figure represents more than 15 percent of all commercial aircraft travelers cleared by CBP in FY 2025. For FY 2026, CBP projects that an estimated 300,000–350,000 travelers will be processed at the preclearance facility at Billy Bishop Toronto City Airport, and in 10 years, CBP projects that 1 million travelers will be processed at that facility annually.[2]

B. Toronto, Canada, Preclearance Operations

Preclearance operations have been ongoing in Toronto, Ontario, at Toronto Pearson International Airport since 1952.[3] Toronto, Ontario, is listed by city and province as a preclearance office in the CBP regulations in 19 CFR 101.5. Because the city and province are already listed in the regulations, the designation of Billy Bishop Toronto City Airport is being announced here by a notice in the **Federal Register**.

CBP and the Toronto Port Authority signed a Memorandum of Understanding on November 21, 2024, implementing certain aspects of the 2015 Agreement on Land, Rail, Marine, and Air Transport Preclearance between the Government of the United States of America and the Government of Canada to establish another preclearance facility in Toronto, Ontario, in Canada, at Billy Bishop Toronto City Airport. Preclearance operations at Billy Bishop Toronto City Airport are a second preclearance facility in the Toronto, Ontario, preclearance office. Operations at this new facility began on March 10, 2026. CBP will also list this new location on its website.[4] The Billy Bishop Toronto City Airport preclearance facility is open for use by commercial flights. For a list of preclearance offices, please see 19 CFR 101.5.

Signing Authority

The authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue was transferred to the Secretary of Homeland Security pursuant to section 403(l) of the Homeland Security Act of 2002. This document is being issued in accordance with DHS Delegation Order 7010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to publish notices relating to the administration of the activities of CBP.

Rodney S. Scott, the Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to the Director of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the **Federal Register**.

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade,U.S. Customs and Border Protection.

[FR Doc. 2026–06164 Filed 3–30–26; 8:45 am]

BILLING CODE 9111–14–P

[2] Information in this paragraph regarding preclearance facility processing numbers was provided by CBP subject matter experts on November 5, 2025.

[3] *See https://www.canada.ca/en/news/archive/2015/03/canada-united-states-sign-historic-preclearance-agreement.html* (last visited February 10, 2026). *See also* 8 FR 8099 (1943) and T.D. 77–241 (42 FR 54936, Oct. 121977).

[4] A complete list of preclearance locations is available at: *https://www.cbp.gov/travel/preclearance* (last visited on January 5, 2026).

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. USGS–ECO–2026–0001; OMB Control Number 1028–0116; GX.25.WB00.COM16.00]

Agency Information Collection Activities; Alaska Beak Deformity Observations

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, U.S. Geological Survey (USGS) is proposing to renew an information collection as part of the ongoing research in North American birds. Members of the public provide observation reports of birds with deformities from Alaska and other regions.

DATES: Interested persons are invited to submit comments on or before June 1, 2026.

ADDRESSES: You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. USGS–ECO–2026–0001.
- *U.S. Mail:* USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192.

FOR FURTHER INFORMATION CONTACT: Colleen Handel by email at *cmhandel@usgs.gov,* or by telephone at 907–786–7181. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the PRA of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. An agency may not conduct or sponsor, nor is an individual required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic,

mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifying information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: As part of the USGS Ecosystems Mission Area effort to provide science that is used by managers, policymakers, and others for decisions that protect, conserve, and enhance healthy fish and wildlife populations across the United States and beyond, the Alaska Science Center Landbird Program conducts research on avian populations within Alaska. Beginning in the late 1990s, an outbreak of beak deformities in Black-capped Chickadees and other species emerged in southcentral Alaska. USGS scientists launched a study to understand the scope of this problem and its effect on wild birds. Since that time, researchers have gathered important information about the deformities—they have identified a new virus as the likely cause and the geographical distribution appears to be expanding. The collection of PII is requested as part of this ongoing research in North American birds. Members of the public provide observation reports of birds with deformities from Alaska and other regions. These reports are very important in that they allow researchers to determine the geographical distribution of the beak deformities and species affected. Data collection over such a large and remote area would not be possible without the public's assistance. As part of the online reporting system, an individual's phone number, email address, and mailing address are requested. This information allows researchers to request additional details or verify reports if necessary but is not required for submission. PII is used only for contact purposes, is stored in a separate table that is encrypted, and is not shared in any way with other individuals, groups, or organizations.

Title of Collection: Alaska Beak Deformity Observations.

OMB Control Number: 1028–0116.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals/households.

Total Estimated Number of Annual Respondents: 150.

Total Estimated Number of Annual Responses: 175.

Estimated Completion Time per Response: Approximately 5 minutes.

Total Estimated Number of Annual Burden Hours: 15 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

The authority for this action is the PRA of 1995 (44 U.S.C. 3501 *et seq.*).

Brian D. Kimbrell,

USGS Federal Register Liaison, U.S. Department of the Interior | Office of the Chief Information Officer.

[FR Doc. 2026–06142 Filed 3–27–26; 11:15 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516, #O2509–014–004–125222]

Notice of Realty Action: Direct Sale of Public Lands in La Paz County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes a non-competitive (direct) sale of a parcel of BLM-managed public lands in Arizona to permanently resolve management challenges of an isolated tract without public access, to resolve its split-estate status, and to facilitate orderly economic development in a way that would benefit local communities. The parcel, located in La Paz County, contains 640 acres and, if approved, would be sold to 174 Power Global, LLC. The sale would be subject to the applicable provisions of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), and the BLM land sale regulations.

DATES: Interested parties must submit written comments, postmarked or delivered no later than May 15, 2026. The land would not be offered for sale until after May 15, 2026.

ADDRESSES: Mail written comments to James Holden, Field Manager, BLM Hassayampa Field Office, 2020 E Bell Rd., Phoenix, AZ 85022. Comments may also be emailed to: *blm_az_pdo_solar@blm.gov.* Documents pertinent to this proposed sale may be viewed online at: *https://eplanning.blm.gov/Project-Home/?id=D6DD86E1-AC24-F111-8341-001DD800B811.*

FOR FURTHER INFORMATION CONTACT: Derek Eysenbach, Project Manager, at *deysenbach@blm.gov,* at the mailing address above, or by phone at (602) 417–9505. 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 for contacting Mr. Eysenbach. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The BLM will consider a direct sale in accordance with applicable provisions of Section 203 of FLPMA. The surface estate would be sold for no less than the appraised fair market value of $350,000.

Gila and Salt River Meridian, Arizona

T. 3 N., R. 12 W.,
Sec. 16.

The area described contains 640 acres, according to the official plat of the survey of the said land on file with the BLM.

The mineral estate is reserved to the State of Arizona; therefore, no mineral estate would convey with the sale. The proposed sale is in conformance with the BLM Bradshaw-Harquahala Resource Management Plan approved in April 2010, as amended by Renewable Arizona: Restoration Design Energy Project Resource Management Plan Amendments approved in January 2013. The BLM is preparing a parcel-specific Environmental Assessment (EA) in connection with this realty action. It can be viewed online (see **ADDRESSES**).

Regulations at 43 CFR 2710.0–3(a) and 43 CFR 2711.3–3(a) authorize the BLM to utilize a direct sale of public land when a competitive sale is not appropriate, and the public interest would best be served by a direct sale. The BLM would offer the lands to 174 Power Global, LLC since the company holds an exclusive long-term commercial lease with the Arizona State Land Department on all adjacent parcels. The subject parcel has been determined to meet FLPMA section 203(a) sale criteria. Private ownership of the parcel would facilitate timely and efficient development of the lands which would benefit economic development in La Paz County. The isolated parcel has no public access, and no known scenic or recreation values.

Pursuant to the requirements of 43 CFR 2711.1–2(d), publication of this

notice in the **Federal Register** will segregate the land from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Until completion of the sale, the BLM will no longer accept land use applications affecting the public land. The effect of this segregation will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or 2 years after the date of publication in the **Federal Register**, unless extended by the BLM Arizona State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The BLM will publish this notice in the *Parker Pioneer* newspaper once a week for 3 consecutive weeks.

The conveyance document, if issued, will include the following terms, conditions, and reservations:

1. A reservation to the United States for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

2. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented land;

3. Valid existing rights issued prior to conveyance; and

4. Additional terms and conditions that the authorized officer deems appropriate.

The BLM will make available reports pertaining to the land, which include an appraisal; environmental site assessment, per the Comprehensive Environmental Response, Compensation, and Liability Act; and a draft EA, per the National Environmental Policy Act, for review at the Hassayampa Field Office and online (see **ADDRESSES** above). Interested parties may submit, in writing, any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the parcel, at the address listed in the **ADDRESSES** section by the deadline listed in the **DATES** section.

The land is suitable for direct sale under FLPMA, without competition, consistent with 43 CFR 2711.3–3(a)(4), as direct sales may be used ''when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale,'' including when ''the adjoining ownership pattern and access indicate a direct sale is appropriate.''

The BLM Arizona State Director will review adverse comments regarding the parcel and may sustain, vacate, or modify this realty action, in-whole or in-part. In the absence of timely objections, this realty action will become the final determination of the Department of the Interior.

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us, in your comment, to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2711.1–2)

Raymond Suazo,

BLM Arizona State Director.

[FR Doc. 2026–06225 Filed 3–30–26; 8:45 am]

BILLING CODE 4331–12–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–748–749 and 731–TA–1726–1727 (Final)]

Float Glass Products From China and Malaysia; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of float glass products from China, provided for in subheadings 7005.10.80, 7005.21.10, 7005.21.20, 7005.29.18, 7005.29.25, 7007.29.00, 7008.00.00, 7009.91.50, and 7009.92.50 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and imports of the subject merchandise from China and Malaysia that have been found to be subsidized by the governments of China and Malaysia.[2] [3] The Commission further determines that imports of float glass products from Malaysia found by Commerce to be sold in the United States at LTFV are negligible and terminates the antidumping duty investigation concerning Malaysia.[4]

Background

The Commission instituted these investigations effective November 21, 2024, following receipt of petitions filed with the Commission and Commerce by Vitro Flat Glass, LLC, Cheswick, Pennsylvania, and Vitro Meadville Flat Glass, LLC, Cochranton, Pennsylvania. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of float glass products from China and Malaysia were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on August 13, 2025 (90 FR 38991).[5] The public hearing in connection with the investigations, scheduled for February 5, 2026, was cancelled.[6]

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on March 26, 2026. The views of the Commission are contained in USITC Publication 5715 (March 2026), entitled *Float Glass Products from China and Malaysia: Investigation Nos. 701–TA–748–749 and 731–TA–1726–1727 (Final).*

By order of the Commission.

Issued: March 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06129 Filed 3–30–26; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 91 FR 5708, 91 FR 5713, 91 FR 5720, and 91 FR 5723 (February 9, 2026).

[3] Commissioner David S. Johanson dissenting.

[4] The Commission initially voted in these investigations on March 5, 2026. The Commission found that imports of float glass products from Malaysia determined by Commerce to be sold at LTFV were not negligible. Chair Amy A. Karpel, Commissioner Jason E. Kearns, and Commissioner David S. Johanson voted to reconsider their votes in these investigations on March 20, 2026. On March 23, 2026, following this decision to reconsider, the Commission changed its determination in the antidumping duty investigation of imports from Malaysia from affirmative to negative based on negligibility grounds.

[5] Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission tolled its schedule for this proceeding. The schedule was revised in subsequent notices published in the **Federal Register** on November 24, 2025 (90 FR 52999) and December 11, 2025 (90 FR 57483).

[6] 91 FR 5510, February 6, 2026.

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Semiconductor Devices, Products Containing Same, and Components Thereof, DN 3896*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of GlobalFoundries U.S. Inc. on March 26, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor devices, products containing same, and components thereof. The complaint names as respondents: Tower Semiconductor Ltd. of Israel; Tower Partners Semiconductor Co., Ltd. of Japan; Tower Semiconductor Italy S.R.L. (Italy) of Italy; Tower US Holdings, Inc. of Newport Beach, CA; Tower Semiconductor San Antonio, Inc. of San Antonio, TX; Tower NPB Holdings, Inc. of San Jose, CA; Tower Semiconductor Newport Beach, Inc. of Newport Beach, CA; and Newport Fab LLC of Newport Beach, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3896'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: March 26, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06143 Filed 3–30–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Meeting of the Religious Liberty Commission

AGENCY: Office of the Associate Attorney General, United States Department of Justice (DOJ).

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The DOJ is publishing this notice to announce the seventh Federal advisory committee meeting of the Religious Liberty Commission (Commission).

DATES: Open to the public April 13, 2026, from 8:30 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the World Stage Theatre at the museum of the Bible in Washington, DC. The meeting will be recorded and broadcast at *justice.gov/live.*

FOR FURTHER INFORMATION CONTACT: Mary Margaret Bush, Religious Liberty Commission Director and Designated Federal Officer, *RLC@usdoj.gov,* 202–514–2046. Mrs. Bush can also be contacted to request a reasonable accommodation to attend the meeting.

Registration Information: Registration is required for in-person attendance. In-person attendance is limited to venue capacity. Members of the public may register on the Religious Liberty Commission website, *https://www.justice.gov/religious-liberty-commission.* Members of the public who attend in-person will be required to present identification and go through security screening.

We ask guests from the media to register through the Department of Justice Office of Public Affairs by April 10, 2026 at 5 p.m. Media should be prepared to go through security checks and present government-issued photo I.D. and valid media credentials.

SUPPLEMENTARY INFORMATION: The Religious Liberty Commission is a federal advisory committee established by the President through Executive Order 14291. The Commission is composed of a chair, a vice chair, and eleven members appointed by the President, including representatives from the private sector, employers, educational institutions, religious communities and States, and three ex-officio members. The Commission advises the Domestic Policy Council and the White House Faith Office on religious liberty policies of the United States, and will produce a comprehensive report to the President on the foundations of religious liberty in America, the impact of religious liberty on American society, current threats to domestic religious liberty, strategies to preserve and enhance religious liberty protections for future generations, and programs to increase awareness of and celebrate America's peaceful religious pluralism.

Agenda: During its seventh hearing on April 13, 2026, the Commission will discuss the contributions religious liberty has made to the Americans' freedom to flourish.

Public Comment: Written comments may be sent by email to *RLC@usdoj.gov* or by mail to U.S. Department of Justice, Office of the Associate Attorney General, ATTN: Religious Liberty Commission, 950 Pennsylvania Avenue NW, Room 5706, Washington, DC 20530. The deadline for comments is April 6, 2026.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*).

Dated: March 27, 2026.

Mary Margaret Bush,

Designated Federal Officer, Religious Liberty Commission.

[FR Doc. 2026–06208 Filed 3–27–26; 4:15 pm]

BILLING CODE 4410–21–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 26–02]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) Advisory Council was established as a discretionary advisory committee on July 14, 2016. Its charter was most recently renewed for a fourth term on July 2, 2024. The MCC Advisory Council serves MCC solely in an advisory capacity and provides insight regarding innovations in infrastructure, technology, and sustainability; perceived risks and opportunities in MCC partner countries; new financing mechanisms for developing country contexts; and shared value approaches. The MCC Advisory Council provides a platform for systematic engagement with the private sector and other external stakeholders and contributes to MCC's mission—to advance America's economic and strategic interests through results focused foreign assistance.

DATES: Wednesday, April 15, 2026, from 9:30 a.m.–12:00 p.m. EDT.

ADDRESSES: The meeting will be hybrid, via in-person and conference call.

FOR FURTHER INFORMATION CONTACT: Email *MCCAdvisoryCouncil@mcc.gov,* contact Sheena Cooper at (202) 733–7148, or visit *https://www.mcc.gov/about/org-unit/advisory-council* for more information.

SUPPLEMENTARY INFORMATION:

Agenda. During the Spring 2026 meeting of the MCC Advisory Council members will receive updates on the MCC private sector strategy presented in January and MCC's new ''American Returns'' on MCC's programs. Additionally, members will engage with MCC's new critical minerals approach along with a country profile of one of MCC's compact countries incorporating the critical minerals strategy.

Public Participation. The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to attend, please submit your name and affiliation no later than Monday, April 13, 2026, to *MCCAdvisoryCouncil@mcc.gov* to receive instructions on how to attend.

(Authority: Federal Advisory Committee Act, 5 U.S.C. App.)

Brian Finklestein,

Acting Vice President, General Counsel, and Corporate Secretary.

[FR Doc. 2026–06160 Filed 3–30–26; 8:45 am]

BILLING CODE 9211–03–P

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; NSF Small Business Innovation Research (SBIR) Program Phase I, NSF Small Business Technology Transfer (STTR) Program Phase I, and NSF SBIR/STTR Fast-Track Pilot Pre-Submission Project Pitch Form

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, Randolph Building, 401 Dulaney Avenue, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the submission may be obtained by calling 703–292–7556. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title of Collection: NSF Small Business Innovation Research (SBIR) Program Phase I, NSF Small Business Technology Transfer (STTR) Program Phase I, and NSF Fast-Track Pilot Pre-submission Project Pitch Form.

OMB Control No.: 3145–0282.

Abstract: The NSF Small Business Innovation Research Program (SBIR) Phase I, Small Business Technology Transfer Program (STTR) Phase I, and SBIR/STTR Fast-Track Pilot Project Pitch is an NSF SBIR/STTR pre-submission process that conveys information needed to direct the proposed SBIR/STTR project to the appropriate NSF Program Director (PD) for review and possible proposal submission invitation. The Project Pitch is to be submitted by the applying small business concern (as ''proposer'') to the relevant NSF SBIR/STTR Phase I or Fast-Track Pilot technology topic. The Project Pitch outlines solicitation-specific aspects of the project (such as the proposed technology innovation)) and captures the same requested information, as outlined in the NSF SBIR/STTR Phase I and Fast-Track Program solicitations, but all within one secure, web-based form. Specifically, the form collects the submitting proposer company and team information, the proposed technology innovation; the technical objectives and challenges, and the market opportunity. The form also allows the proposer to choose (from a drop-down menu) the most relevant NSF SBIR/STTR Phase I and Fast-Track Pilot technical topic area, ensuring that the submitted Project Pitch goes to the most appropriate Program Director. For the SBIR/STTR Fast-Track Pilot submission, the Project Pitch encompasses the same questions as outlined in the Phase I Project Pitch but also seeks responses to three key eligibility requirements: NSF lineage, customer-discovery experience, and confirmation that the team members are currently employed by the company. These requirements expand on the details of the previously required information on the proposed technology innovation, the market opportunity, and the company and team, respectively.

Respondents: Small business concerns who submit proposals to NSF's SBIR/STTR Phase I and Fast-Track Pilot Programs.

Estimated Number of Annual Respondents: 15,000.

Burden on the Public: 2 hours (per response) for an annual total of 30,000 hours.

Dated: March 27, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–06210 Filed 3–30–26; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Committee on Strategy hereby gives notice of scheduling a teleconference for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: April 3, 2026, at 11:00 a.m.–12:00 p.m. Eastern.

PLACE: This meeting will be via videoconference through the National Science Foundation, 401 Dulaney Street, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda is: Chair's Opening Remarks about the Agenda; Committee discussion of NSF FY28 budget.

CONTACT PERSON FOR MORE INFORMATION: The point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703–292–7000. Meeting information and updates may be found at *www.nsf.gov/nsb.*

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2026–06171 Filed 3–27–26; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0055]

Regulatory Issue Summary: Applicability of Requirements During the Movement of Radioactive Material Within a Temporary Jobsite

AGENCY: Nuclear Regulatory Commission.

ACTION: Final guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Issue Summary (RIS) 2026–03, ''Applicability of Requirements During the Movement of Radioactive Material Within a Temporary Jobsite.'' This RIS clarifies the applicability of NRC regulations for the transport of radioactive material within a temporary jobsite.

DATES: The RIS is available as of March 31, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–0055 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–2025–0055. 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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

This RIS is also available on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/* (select ''2026'' and then select ''2026–03'').

FOR FURTHER INFORMATION CONTACT: Alessandra Marra, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2509; email: *Alessandra.Marra@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC published a notice of opportunity for public comment on this RIS in the **Federal Register** (90 FR 11391) on March 6, 2025. The agency received comments from three commenters. The staff considered all comments, which resulted in no changes to the RIS. The evaluation of these comments to the RIS are discussed in a publicly available memorandum dated June 2, 2025 (ADAMS Accession No. ML25154A414).

RIS 2026–03, ''Applicability of Title 10 of the Code of Federal Regulations Part 71 Requirements During the Movement of Radioactive Material Within a Temporary Jobsite'' is available in ADAMS under Accession No. ML25164A046.

Executive Order 12866: The Office of Information and Regulatory Affairs determined that RIS 2026–03, is not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: March 27, 2026.

For the Nuclear Regulatory Commission.

Christopher Speer,

Acting Chief, Generic Communications and Operating Experience Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–06190 Filed 3–30–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0077]

Information Collection: Scheduling Information for the Licensing of Accident Tolerant, Higher Burnup, and Increased Enrichment Fuels

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Scheduling Information for the Licensing of Accident Tolerant, Higher Burnup, and Increased Enrichment Fuels.''

DATES: Submit comments by April 30, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0077 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–0077.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession: No. ML26056A331. The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML25351A182 and ML25120A388, respectively.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC Clearance Officer, Heather Dempsey, Office of the Chief Information Officer,

U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Scheduling Information for the Licensing of Accident Tolerant, Higher Burnup, and Increased Enrichment Fuels.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 10, 2025, 90 FR 57221.

1. *The title of the information collection:* Scheduling Information for the Licensing of Accident Tolerant, Higher Burnup, and Increased Enrichment Fuels.

2. *OMB approval number:* 3150–0258.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* Annually.

6. *Who will be required or asked to respond:* All holders of operating licenses for nuclear power reactors under the provisions of part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' or holders of a combined license under 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' except those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel. All holders of licenses and potential applicants for a fuel cycle facility under the provisions of 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material,'' and holders of licenses and Certificates of Compliance and potential applicants for transportation and storage systems under the provisions of 10 CFR part 71, ''Packaging and Transportation of Radioactive Material,'' and 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste.''

7. *The estimated number of annual responses:* 14.

8. *The estimated number of annual respondents:* 14.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 140.

10. *Abstract:* The accident tolerant fuel (ATF) program is a joint effort between the U.S. nuclear industry and the U.S. Department of Energy to design and pursue approval of various fuel types with enhanced accident tolerance. The ATF program includes development of technologies that would extend fuel burnup and enrichment limits beyond currently authorized levels. In order to deploy these new technologies, the industry will need to seek authorization for various activities throughout the fuel cycle, from fuel fabrication, transportation, and storage to installation and utilization in a reactor. In order to support the timely processing of licensing activities needed to support the deployment of these new technologies, the NRC is seeking scheduling information for licensing submittals from all respondents. This information will allow the NRC to better allocate its resources to support the activities associated with licensing these technologies while being better able to meet the industry's desired timeline.

Dated: March 26, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–06169 Filed 3–30–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9086; NRC–2026–0595]

International Isotopes, Inc.; Green Salt Products, LLC; Direct License Transfer Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; withdrawal of application.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted a request by International Isotopes Inc., on behalf of International Isotopes Fluorine Products and Green Salt Products, LLC, to withdraw its request for NRC consent to the direct transfer of control of source material license number 1011 (SUB–1011). The application concerned a proposed depleted uranium deconversion and fluorine processing venture for a site near Hobbs/Lea County, New Mexico.

DATES: March 31, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–0595 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–0595. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS)

is provided the first time that it is mentioned in this document.

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

FOR FURTHER INFORMATION CONTACT: Diana Woodyatt, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1245; email: *Diana.Woodyatt@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has granted a request by International Isotopes Inc., on behalf of International Isotopes Fluorine Products and Green Salt Products, LLC, to withdraw its request for NRC consent for the direct transfer of control of SUB–1011 dated October 1, 2025. The application concerned a proposed depleted uranium deconversion and fluorine processing venture for a site near Hobbs/Lea County, New Mexico. On February 6, 2026, the NRC published in the **Federal Register** a notice of receipt, opportunity to comment, request a hearing, and petition for leave to intervene (91 FR 5518) for the request for NRC consent to the direct transfer of control of source material license number SUB–1011. The application and the letter requesting its withdrawal, dated March 11, 2026, are available in ADAMS under Accession Nos. ML25273A381 and ML26071A277, respectively. The NRC letter of acknowledgment of withdrawal is available in ADAMS under Accession No. ML26072A234.

Dated: March 26, 2026.

For the Nuclear Regulatory Commission.

Tekia Govan,

Acting Chief, Fuel Facility Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–06138 Filed 3–30–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–37587; License No. 24–32636–01; EAF–RIII–2024–0017; NRC–2026–1256]

In the Matter of Metro Cardiovascular Diagnostics Order Imposing Civil Monetary Penalty

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an Order Imposing Civil Monetary Penalty (Order) to Metro Cardiovascular Diagnostics. This Order was issued because the licensee was previously issued a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of $36,000 on July 28, 2025. The licensee failed to respond to the Notice or pay the civil penalty. Despite multiple attempts by the NRC to contact the licensee, no response was received; therefore, the NRC is imposing the civil penalty through this Order. The NRC staff has determined that the violations occurred as described in the Notice and that the $36,000 civil penalty proposed for the violations is appropriate and will be imposed. This Order is effective upon issuance.

DATES: This order was issued on March 4, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–1256 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1256. 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.*

• *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: Carmen Rivera, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0296; email: *Carmen.Rivera@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: March 26, 2026.

For the Nuclear Regulatory Commission.

Bo Pham,

Acting Director, Office of Enforcement.

Attachment—Order Imposing Civil Monetary Penalty

United States of America

Nuclear Regulatory Commission

In the Matter of: Metro Cardiovascular Diagnostics, 030–37587, Florissant, Missouri, 24–32636–01, EAF–RIII–2024–0017

Order Imposing Civil Monetary Penalty

I

Metro Cardiovascular Diagnostics (Licensee) is the holder of NRC Materials License No. 24–32636–01 issued on July 17, 2018, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the Code of Federal Regulations (10 CFR). The license authorizes the operation of Metro Cardiovascular Diagnostics (facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in Florissant, Missouri.

II

An investigation of the Licensee's activities was initiated on October 5, 2023, and completed on September 11, 2024. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the Licensee by letter dated July 28, 2025. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee violated, and the amount of the civil penalties proposed for the violations. As of the date of this Order, the Licensee has neither provided a written response to the Notice nor paid the proposed civil penalty. NRC staff have unsuccessfully attempted to contact the Licensee multiple times since the issuance of the Notice regarding payment of the proposed civil penalties.

III

Because the Licensee did not respond to the Notice, there are no additional facts, explanation, or other information to consider. The NRC has determined that the violations occurred as stated and that the penalties proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee shall pay the civil penalties in the amount of $36,000 within 30 days of the date of this Order by submitting the payment in accordance with NUREG/BR–0254.

In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

In accordance with 10 CFR 2.202, Metro Cardiovascular Diagnostics must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of its publication in the **Federal Register**. In addition, Metro Cardiovascular Diagnostics and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*). Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or their counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or their counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals/getting-started.html*). After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in Portable Document Format (PDF). Guidance on submissions is available on the NRC's public website (*https://www.nrc.gov/site-help/electronic-sub-ref-mat.html*). A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed in order to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website (*https://www.nrc.gov/sitehelp/e-submittals.html*), by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use EFiling if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available on the NRC's public website (*https://adams.nrc.gov/ehd*), unless otherwise excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a J. Siddiqui—8—particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

If a person other than Metro Cardiovascular Diagnostics requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Metro Cardiovascular Diagnostics or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. *An Answer or a Request for Hearing Shall Not Stay the Immediate Effectiveness of This Order.* If payment has not been made by the time specified above, the matter may be referred to the Attorney General, for collection.

For the Nuclear Regulatory Commission.

Dated this 4th day of March 2026.

Bo Pham,

Acting Director, Office of Enforcement.

[FR Doc. 2026–06168 Filed 3–30–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–70, 50–73, 50–183 and 70–754; NRC–2026–1288]

NorthStar Vallecitos, LLC; Vallecitos Nuclear Center; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice, issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption to NorthStar Vallecitos, LLC (NSV), for Vallecitos Nuclear Center (VNC), from the requirement to investigate and report to the NRC when NSV does not receive notification of a receipt of a shipment, or part of a shipment, of low level radioactive waste within 20 days after transfer from the VNC. NSV requested that the time period for it to receive acknowledgement that the shipment has been received by the intended recipient be extended from 20 to 45 days to avoid an excessive administrative burden as operational experience indicates that shipments may take more than 20 days to reach their destination

DATES: The exemption was issued on March 23, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–1288 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1288. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6877; email: *William.Allen@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: March 27, 2026.

For the Nuclear Regulatory Commission.

Theodore Smith,

Acting Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–70, 50–73, 50–183 and 70–754;

NorthStar Vallecitos, LLC; Vallecitos Nuclear Center; Exemption From Certain Low-Level Waste Shipment Tracking Requirements

I. Background

The Vallecitos Nuclear Center (VNC) is in Sunol, California, near the center of the Pleasanton quadrangle of Alameda County. VNC is east of San Francisco Bay, approximately 35 miles east-southeast of San Francisco and 20 miles north of San Jose. One power reactor, the Empire State Atomic Development Associates (ESADA) Experimental Vallecitos Superheat Reactor (EVESR) (License No. DR–10) and two research and test reactors, the General Electric Test Reactor (GETR) (License No. TR–1) and the Nuclear Test Reactor (NTR) (License No. R–33), are located at VNC. The Hillside Storage Facility (or Hillside Bunker) (License No. SNM–960) is also located at VNC.

The NRC authorized the transfer of the EVESR, GETR, NTR and SNM licenses to NorthStar Vallecitos (NSV) by Order issued April 25, 2024 (ADAMS Accession No. ML24039A011). Soon after implementation of the license transfer on March 14, 2025 (ADAMS Accession No. ML24053A060), NSV commenced dismantlement and decommissioning activities at the VNC site for the EVESR, the GETR and certain buildings associated with the Hillside Storage Facility. These decommissioning activities generate large volumes of low-level radioactive waste which will be transported to the waste disposal facility operated by Waste Control Specialist (WCS) in Andrews, Texas.

II. Request/Action

By letter dated October 9, 2025 (ADAMS Accession No. ML25282A062), NSV requested an exemption from 10 CFR part 20, appendix G, ''Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,'' Section III.E. for disposals from the VNC facility. Section III.E requires that the shipper of any low-level radioactive waste to a licensed land disposal facility must investigate and trace the shipment if the shipper has not received notification of the shipment's receipt by the disposal facility within 20 days after transfer. In addition, Section III.E requires a licensee to report missing shipments to the NRC. Specifically, NSV is requesting an exemption from the requirements in 10 CFR part 20, Appendix G, Section III.E, under the provisions of 10 CFR 20.2301, ''Applications for exemptions,'' sought to extend the length of time for NSV to receive acknowledgement of shipment receipt from the intended recipient from 20 to 45 days for VNC rail, road or mixed mode shipments (*i.e.,* shipments utilizing a combination of road and rail carriers).

III. Discussion

A. The Exemption Is Authorized by Law

The regulations in 10 CFR 20.2301 allow the Commission, upon application by a licensee or upon its own initiative, to grant exemptions from the requirements of the regulations in 10 CFR part 20 if it determines the exemption would be authorized by law and would not result in undue hazard to life or property. There are no provisions in the Atomic Energy Act of 1954, as amended (or in any other Federal statute) that impose a requirement to investigate and report on low-level radioactive waste shipments that have not been acknowledged by the recipient within 20 days of transfer. Therefore, the NRC concludes that there is no statutory prohibition on the issuance of the requested exemption and the NRC is authorized to grant the exemption by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

Section III.E of 10 CFR part 20, Appendix G requires licensees to investigate, trace, and report radioactive shipments that have not reached their destination, as scheduled, for unknown reasons. Historical data from three VNC investigation reports pursuant to 10 CFR part 20, Appendix G (ADAMS Accession Nos. ML23331A996, ML25350C106 and ML26013A277) found the time from shipment from VNC to acceptance of shipment from a disposal facility took longer than 20 days due to the complexities of mix mode shipment and administrative delays. Two of the shipments exceeded 20 days in transit, with transit times of 22 and 25 days; and the other shipment while having a documented 19 day transit time, exceeded the 20 days for receipt acknowledgement as the administrative steps of accepting the shipment took additional time. All three reports indicated mix mode transport where the waste was shipped by truck to a transload facility, readied for transport by the Sierra Northern Railroad, and subsequently reached Andrews, Texas, after being transported by the Union Pacific, as well as the Texas & New Mexico Railway.

Although none of the VNC reports indicated shipment transit times exceeding

30 days, NSV supported its request for an extension to 45 days. Specifically, NSV provided information in their application noting that rail shipments from other sites have been known to sit at the waste facilities railyard awaiting receipt for periods exceeding 30 days. NSV cited an example which occurred with waste shipments from Vermont Yankee to WCS by NorthStar Nuclear Decommissioning Co., LLC, with transit times of 33 and 40 days. In addition, NSV indicated that administrative processes at the disposal facility and mail delivery times could add several additional days beyond the times in transit before the licensee receives notification of receipt.

In further support of the exemption request, NSV also provided information regarding the tracking mechanisms employed by the licensee during shipments. For road and rail shipments, NSV utilizes an electronic data tracking system interchange, or similar tracking systems, to monitor the progress of shipments daily. NSV also requests a daily update be provided for the location of the conveyance from the appropriate carriers.

After reviewing the application, the NRC has determined that extending the time for receipt acknowledgement to 45 days is reasonable. Because the VNC waste shipments utilize three railroads, there are multiple opportunities for delays outside of the control of the shipper, as supported by Enclosure 1 of SECY–18–0055 (ADAMS Accession Nos. ML18012A022). Additionally, as demonstrated by VNC 10 CFR part 20, historical Appendix G investigation reports, administrative processes at the disposal facility and mail delivery times could add several additional days to the transit times beyond the delays likely given the mixed mode transport.

The NRC has also concluded that, because of the oversight and monitoring of radioactive waste shipments throughout the entire journey from VNC to the disposal site, it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or NSV. Furthermore, by extending the elapsed time for receipt acknowledgement to 45 days before requiring investigations, tracing, and reporting, a reasonable upper limit on shipment duration is still maintained if a breakdown of normal tracking systems were to occur. Consequently, the NRC determined that extending the receipt of notification period would not result in an undue hazard to life or property.

C. Categorical Exclusion Evaluation

With respect to compliance with Section 102(2) of the National Environmental Policy Act, 42 U.S.C. 4332(2) (NEPA), the NRC staff has determined that the proposed action, namely, the approval of the NSV exemption request, is within the scope of the two categorical exclusions listed at 10 CFR 51.22(c)(25)(vi)(B) and 10 CFR 51.22(c)(25)(vi)(C). The categorical exclusion listed at 10 CFR 51.22(c)(25)(vi)(B) concerns approval of exemption requests from reporting requirements and the categorical exclusion listed at 10 CFR 51.22(c)(25)(vi)(C) concerns approval of exemption requests from inspection or surveillance requirements.

In order to meet these categorical exclusion categories, the proposed exemption would also need to satisfy sections 10 CFR 51.22(c)(25)(vi)(i)–(v). After evaluating the request, staff determined that the proposed exemption satisfies sections 51.22(c)(25)(vi)(i)–(v), as the exemption would only extend certain reporting and inspection and surveillance requirements and does not impact the facility or operations. Specifically, with respect to this exemption the staff determined that there is no significant hazards consideration because there is no impact to the facility; structures, systems or components of the facility; or operations of the facility. Because the proposed exemption only extends certain reporting and inspection and surveillance requirements, and does not authorize changes to the facility or operations at the facility, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption is authorized by law and will not result in undue hazard to life or property. Therefore, the Commission hereby grants NSV an exemption from 10 CFR part 20, Appendix G, Section III.E to extend the receipt of notification period from 20 days to 45 days after transfer for rail or mixed-mode shipments of low-level radioactive waste from the VNC facility to a licensed land disposal facility.

Dated at Rockville, Maryland, this 23rd day of March 2026.

For the Nuclear Regulatory Commission.

/RA by Theodore Smith for/

Jane E. Marshall,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–06174 Filed 3–30–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2026–4; Order No. 9490]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recently filed Postal Service document with the Commission concerning time-limited changes in rates of general applicability for Competitive products. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 2, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://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 and Overview
II. Initial Administrative Actions
III. Ordering Paragraphs

I. Introduction and Overview

On March 25, 2026, the Postal Service filed notice with the Commission concerning time-limited changes in rates of general applicability for Competitive products.[1] The Postal Service represents that, as required by 39 CFR 3035.102(b), the Notice includes an explanation and justification for the changes, the effective date, a schedule of the changed rates, and a schedule showing current prices that shall be restored. *See* Notice at 1. The changes are scheduled to take effect on April 26, 2026, and will roll back to current levels on January 17, 2027. *Id.*

Attached to the Notice is Governors' Decision No. 26–1, which states the new prices are in accordance with 39 U.S.C. 3632 and 3633 and 39 CFR 3035.102.[2] The Governors' Decision provides an analysis of the Competitive products' price changes intended to demonstrate that the changes comply with 39 U.S.C. 3633 and 39 CFR part 3035. Governors' Decision No. 26–1 at 1. The attachment to the Governors' Decision sets forth the price changes and includes draft *Mail Classification Schedule* (MCS) language for Competitive products of general applicability, as well as the MCS sections with the prices that will be restored on January 17, 2027. No price changes are being made to Special

[1] USPS Notice of Time-Limited Changes in Rates of General Applicability for Competitive Products, March 25, 2026 (Notice). Pursuant to 39 U.S.C. 3632(b)(2), the Postal Service is obligated to publish the Governors' Decision and record of proceedings in the **Federal Register** at least 30 days before the effective date of the new rates.

[2] Notice, Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 26–1), at 1 (Governors' Decision No. 26–1).

Services or International Competitive products. *Id.* at 3.

The Notice also includes an application for non-public treatment of the attributable costs, contribution, and cost coverage data in the unredacted version of the annex to the Governors' Decision, as well as the supporting materials for the data. Notice at 2.

Planned price adjustments. The Governors' Decision includes an overview of the Postal Service's planned price changes, which is summarized in the table below.

TABLE I–1—PROPOSED PRICE CHANGES

Product name	Average price increase (percent)
Domestic Competitive Products	
Priority Mail Express	8.0
Retail	8.0
Commercial	8.0
Priority Mail	8.0
Retail	8.0
Commercial	8.0
USPS Ground Advantage	8.0
Retail	8.0
Commercial	8.0
Parcel Select	8.0

Source: *See* Governors' Decision No. 26–1 at 2.

II. Initial Administrative Actions

The Commission establishes Docket No. CP2026–4 to consider the Postal Service's Notice. Interested persons may express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E. Comments are due no later than April 2, 2026. For specific details of the planned price changes, interested persons are encouraged to review the Notice, which is available on the Commission's website at *www.prc.gov.*

Pursuant to 39 U.S.C. 505, Christopher Mohr is appointed to serve as Public Representative to represent the interests of the general public in this docket. 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.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2026–4 to provide interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E.

2. Comments are due no later than April 2, 2026.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Christopher Mohr to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. This Order shall be published in the **Federal Register**.

By the Commission.

Mallory S. Richards,

Attorney-Advisor.

[FR Doc. 2026–06162 Filed 3–30–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–175 and K2026–175]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

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

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

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. Introduction

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

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

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

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

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

[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).

II. Public Proceeding(s)

None. See Section III for summary proceedings.

III. Summary Proceeding(s)

1. *Docket No(s).:* MC2026–175 and K2026–175; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 940, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 26, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

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

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–06183 Filed 3–30–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105086; File No. SR–NYSEAMER–2026–19]

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 Regarding Certain Fees and Rebates Applicable to Non-Customers and Floor Brokers

March 26, 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 March 11, 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 Non-Customers 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.

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

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

[3] 17 CFR 240.19b–4.

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

In its filing with the Commission, the 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 Non-Customers [4] and Floor Brokers. Specifically, the Exchange proposes to (1) extend a current surcharge that applies to certain electronic complex orders to Manual orders that are not Simple Orders, and (2) establish a rebate payable to Floor Broker orders that trade with a Floor Market Maker order.[5] The Exchange proposes the fee change to be effective March 10, 2026.[6]

The Exchange currently applies a $0.12 per contract surcharge 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 the surcharge 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 per contract. The Non-Customer Complex Surcharge is consistent with surcharges imposed by other options exchanges.[7] The Non-Customer Complex Surcharge is described in footnote 5 in Section I.A. of the Fee Schedule.[8]

The Exchange proposes to extend the Non-Customer Complex Surcharge to also apply to any Non-Customer Manual order that is not a Simple Order (a ''non-Simple order'') that executes against a Customer Manual non-Simple order.[9] To effect this change, the Exchange proposes to amend footnote 5 in Section I.A. of the Fee Schedule to provide as follows:

A $0.12 per contract surcharge will be applied to any Non-Customer order that is not a Simple Order that executes against a Customer order that is not a Simple Order (the ''Non-Customer Complex Surcharge''), regardless of whether the execution occurs in a Complex Order Auction (''COA''). The surcharge will not apply to executions in CUBE Auctions. The Exchange will reduce this per contract surcharge for Electronic executions to $0.10 for ATP Holders that achieve at least 0.20% of TCADV of Electronic Non-Customer Complex Orders in a month. For purposes of the Non-Customer Complex Surcharge with respect to Manual executions, interest from the Trading Crowd is considered ''Non-Customer.''

The proposed changes to footnote 5 would define the Non-Customer Complex Surcharge to apply to both electronic and Manual non-Simple Orders (without any substantive change to the current application of the surcharge to electronic orders), clarify that the discounted surcharge applies only to electronic executions, and define the term ''Non-Customer'' as used in the context of Manual transactions subject to the Non-Customer Complex Surcharge.

The Exchange also proposes to establish a rebate of $0.20 per contract payable to Floor Broker orders that trade with Market Maker orders on the Trading Floor. 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 Section III. E. of the Fee Schedule. The Exchange proposes to add new text to Section III.E. of the Fee

[4] The Fee Schedule defines a ''Non-Customer'' as anyone who is not a ''Customer,'' and defines a ''Customer'' as an individual or organization that is not a Broker-Dealer, per Rule 900.2NY(18), and is not a Professional Customer. *See* Fee Schedule, KEY TERMS and DEFINITIONS.

[5] ''Floor Market Maker'' refers collectively to Specialists, e-Specialists, and Market Makers.

[6] 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), then withdrew such filing and amended the Fee Schedule on January 28, 2026 (SR–NYSEAMER–2026–08), which latter filing the Exchange withdrew on March 10, 2026.

[7] *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).

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

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

Schedule describing the proposed rebate.

The Exchange 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. In addition, although the proposed change to the Non-Customer Complex Surcharge would increase the fee for Non-Customer Manual non-Simple orders that trade with Customer Manual non-Simple orders, the Exchange believes the proposed change to extend the Non-Customer Complex Surcharge to Manual transactions and the proposed Floor Broker rebate would, on balance, not discourage Non-Customers to continue to participate in transactions on the Trading Floor, thereby promoting trading opportunities and competition on the Trading Floor to the benefit of all market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[11] 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.'' [12]

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.[13] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 9.03% market share of executed volume of multiply-listed equity and ETF options trades.[14] 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 Manual orders to the Exchange, thereby creating more trading opportunities on the Trading Floor for all market participants, including Floor Market Makers. The Exchange thus believes that, despite the proposed change to extend the Non-Customer Complex Surcharge to apply to Non-Customer Manual non-Simple orders that trade against Customer Manual non-Simple orders, Non-Customer market participants 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.[15]

The Exchange further believes the proposed change is reasonable because it is intended to extend the existing Non-Customer Complex Surcharge for electronic non-Simple orders involving a Non-Customer vs. Customer to also apply to Manual non-Simple orders involving a Non-Customer vs. Customer and is designed to offset costs associated with the proposed Floor Broker rebate. To the extent this purpose is achieved, the Exchange believes that the proposed surcharge would not disincentivize Non-Customer 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

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

[13] 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.*

[14] 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 6.54% for the month of January 2025 to 9.03% for the month of January 2026.

[15] *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).

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 extend the existing Non-Customer Complex Surcharge to apply to Non-Customer Manual non-Simple orders that trade against a Customer Manual non-Simple orders because the proposed change would apply to all Non-Customer 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 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 Non-Customer Manual non-Simple orders that trade with Customer Manual non-Simple orders, the Exchange believes that Non-Customers would not be discouraged from continuing to participate actively on the Trading Floor and would benefit from increased Manual order flow, including from Floor Brokers seeking to earn the proposed rebate, 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.'' [16]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed surcharge on Non-Customer Manual non-Simple orders that are a counterparty to Customer Manual non-Simple orders, and the proposed rebate payable to the Floor Broker orders that trade against Floor Market Maker orders would not disincentivize Non-Customer 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.[17] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 9.03% market share of executed volume of multiply-listed equity and ETF options trades.[18]

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.

[16] *See* Reg NMS Adopting Release, *supra* note 12, at 37499.

[17] 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.*

[18] 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 6.54% for the month of January 2025 to 9.03% for the month of January 2026.

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) [19] of the Act and subparagraph (f)(2) of Rule 19b–4 [20] 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) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2026–19 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–2026–19. 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–2026–19 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06156 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(2).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105085; File No. SR–NYSEARCA–2026–28]

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 Regarding Certain Fees and Rebates Applicable to Non-Customers and Floor Brokers

March 26, 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 March 11, 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 Non-Customers 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.

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

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

[3] 17 CFR 240.19b–4.

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

In its filing with the Commission, the 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 Non-Customers [4] and Floor Brokers. Specifically, the Exchange proposes to (1) extend a current surcharge that applies to certain electronic complex orders to Manual complex orders, and (2) establish a rebate payable to Floor Broker orders that trade with a Market Maker order on the Trading Floor. The Exchange proposes the fee change to be effective March 10, 2026.[5]

The Exchange currently applies a $0.12 per contract surcharge to any 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.[6] 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.

[4] The Fee Schedule refers to Firms, Broker Dealers, and Market Makers collectively as ''Non-Customers.'' *See* NYSE Arca OPTIONS: TRADE–RELATED CHARGES FOR STANDARD OPTIONS.

[5] 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), and then withdrew such filing and amended the Fee Schedule on January 28, 2026 (SR–NYSEARCA–2026–07), which latter filing the Exchange withdrew on March 10, 2026.

[6] *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).

The Exchange proposes to extend the Non-Customer Complex Surcharge to also apply to any Non-Customer Manual complex order that executes against a Customer Manual complex order.[7] To effect this change, 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'' and replace the ''*'' currently denoting the Non-Customer Complex Surcharge. The Exchange also proposes to delete the text defining the Non-Customer Complex Surcharge in the ''*'' and move it to new Endnote 18, with revisions to specify that it would apply to both electronic and Manual complex orders. In Endnote 18, the Exchange also proposes to specify that, for purposes of the Non-Customer Complex Surcharge as applicable to Manual executions, interest from the Trading Crowd is considered ''Non-Customer.'' [8] 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 Manual complex orders. The proposed changes with respect to the Non-Customer Complex Surcharge, as applicable to electronic executions, are intended only to clarify the application of the existing fee, rather than to make any substantive changes.

The Exchange also proposes to establish a rebate of $0.20 per contract payable to Floor Broker orders that trade with Market Maker orders on the Trading Floor. 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. The Exchange proposes to add new text describing this rebate to Endnote 17.

The Exchange 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. In addition, although the proposed change to the Non-Customer Complex Surcharge would increase the fee for Non-Customer Manual complex orders that trade with Customer Manual complex orders, the Exchange believes the proposed change to extend the Non-Customer Complex Surcharge to Manual transactions and the proposed Floor Broker rebate would, on balance, not discourage Non-Customers to continue to participate in transactions on the Trading Floor, thereby promoting trading opportunities and competition on the Trading Floor to the benefit of all market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[10] 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.'' [11]

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.[12] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 10.39% market share of executed volume of multiply-listed equity and ETF options trades.[13] 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 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 change to extend the Non-Customer Complex Surcharge to apply to Non-Customer Manual complex orders that trade against Customer Manual complex orders, Non-Customer market participants 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.[14]

[7] 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.

[8] The Exchange also proposes that Endnote 18 would reflect that manual transactions in MXEA and MXEF are not subject to the Non-Customer Complex Surcharge. *See* Securities Exchange Act Release No. 104926 (March 4, 2026), 91 FR 11365 (March 9, 2026) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule To Adopt Fees for Trading in Options Overlying the MSCI EAFE Index and the MSCI Emerging Markets Index).

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

[10] 15 U.S.C. 78f(b)(4) and (5).

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

[12] 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.*

[13] 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 13.08% in January 2025 to 10.39% for the month of January 2026.

[14] *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

Continued

The Exchange further believes the proposed change is reasonable because it is intended to extend the existing Non-Customer Complex Surcharge for electronic complex orders involving a Non-Customer vs. a Customer to also apply to Manual complex orders involving a Non-Customer vs. a Customer and is designed to offset costs associated with the proposed Floor Broker rebate. To the extent this purpose is achieved, the Exchange believes that the proposed surcharge would not disincentivize Non-Customer 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 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 extend the existing Non-Customer Complex Surcharge to apply to Non-Customer Manual complex orders that trade against a Customer Manual complex order because the proposed change would apply to all Non-Customer 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 Manual order that trades with a Market Maker order on the Trading Floor 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 Non-Customer Manual complex orders that trade with Customer Manual complex orders, the Exchange believes that Non-Customers would not be discouraged from continuing to participate actively on the Trading Floor and would benefit from increased Manual order flow, including from Floor Brokers seeking to earn the proposed rebate, 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.'' [15]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed surcharge on Non-Customer Manual complex orders that are a counterparty to Customer Manual complex orders and the proposed rebate payable to the Floor Broker orders that trade against Market Maker orders on the Trading Floor would encourage Floor Broker complex Manual order flow and would not disincentivize Non-Customer 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

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).

[15] *See* Reg NMS Adopting Release, *supra* note 11, at 37499.

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.[16] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 10.39% market share of executed volume of multiply-listed equity and ETF options trades.[17]

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.

[16] 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.*

[17] 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 13.08% in January 2025 to 10.39% for the month of January 2026.

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) [18] of the Act and subparagraph (f)(2) of Rule 19b–4 [19] 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) [20] 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–2026–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2026–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–NYSEARCA–2026–28 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06155 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0466]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 103

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''SEC'' or ''Commission'') is soliciting comments on the proposed collection of information provided for in Rule 103 of Regulation M (17 CFR 242.103), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 103 permits passive market-making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making.

There are approximately 249 respondents per year that require an aggregate total of approximately 249 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 1 hour to complete. Thus, the total hour burden per year is approximately 249 hours (249 secondary offerings of Nasdaq securities eligible for passive market making × 1 hour per offering). The total estimated aggregate internal cost of compliance for the respondents is approximately $40,836 per year, resulting in an estimated aggregate internal cost of compliance per response of approximately $164 (*i.e.,* $40,836/249 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information shall have practical utility; (b) the accuracy of the SEC's estimate of the burden by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to *PaperworkReductionAct@sec.gov* by June 1, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: March 26, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06136 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105094; File No. SR–CboeEDGX–2026–014]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce an Exchange Clock Service

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2026, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 13.8 to provide for the new service called the Clock Service. 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/* [sic]), and at the principal office of the Exchange.

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

In its filing with the Commission, the 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 13.8 to provide for the new service called the Clock Service.[3] The Clock Service is an optional product[4] available to Members and non-Members alike. In sum, a subscriber would be able to utilize the proposed Clock Service to synchronize their time recording systems to those of the Exchange for highly correlated latency measurements between the Exchange's and the subscriber's systems time measurements related to the same message or order. Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The proposed Clock Service is not novel to the securities markets and it is similar to the network time synchronization service currently offered by MIAX Emerald, LLC (''MIAX Emerald'').[5] The Exchange proposes to provide the Clock Service in response to participant demand for more precise and more accurate clock synchronization options with the Exchange's network.

The U.S. Government's Global Positioning System (''GPS'') clock[6] time signal is the benchmark by which the Exchange and most, if not all, Members and non-Members use to synchronize their internal primary clock devices.[7] Using the U.S. Government provided GPS time signals publicly available through the GPS network is a de facto standard for high precision time synchronization across geographically diverse locations. Typically, a GPS receiver connected to an antenna serves as a time signal source which feeds the Coordinated Universal Time (referred to as ''UTC'') to synchronize other clocks using Precision Time Protocol (''PTP'').[8]

The Exchange's primary clock[9] is the time source used to synchronize the

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

[2] 17 CFR 240.19b–4.

[3] The Exchange also proposes to amend the title of Rule 13.8 from ''Exchange Data Products'' to ''Exchange Data Products and Services.''

[4] A firm that chooses to subscribe to the proposed Clock Service may discontinue the Clock Service at any time if that firm determines that it is no longer useful or that alternatives better meet their business or system needs. The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[5] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31022 (May 20, 2022) (SR–EMERALD–2022–16).

[6] For a description of the GPS clock, see Official U.S. Government Information About the Global Positioning System (GPS) and Related Topic, available at *https://www.gps.gov/applications/timing/* (providing that ''[i]n addition to longitude, latitude, and altitude, the Global Positioning System (GPS) provides a critical fourth dimension—time. Each GPS satellite contains multiple atomic clocks that contribute very precise time data to the GPS signals. GPS receivers decode these signals, effectively synchronizing each receiver to the atomic clocks. This enables users to determine the time to within 100 billionths of a second, without the cost of owning and operating atomic clocks.'')

[7] *See* An Evaluation of Dependencies of Critical Infrastructure Timing Systems on the Global Positioning System (GPS), noting that ''the primary time synchronization sources for these systems are signals broadcast by Global Positioning System (GPS) satellites. . .''

[8] A primary clock device is a precision parent clock that provides timing signals to synchronized secondary child clocks as part of a standalone clock network. The term ''Coordinated Universal Time'' is defined as the ''international standard of time that is kept by atomic clocks around the world.'' See Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/Coordinated%20Universal%20Time* (last visited November 10, 2021). Coordinated Universal Time is the primary time standard by which the world regulates clocks and time. See *https://www.timeanddate.com/time/aboututc.html.* ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. See also ''IEEE–1588 Standard for a Precision Clock Synchronization Protocol for Networked Measurement and Control Systems'' available at *https://www.nist.gov/system/files/documents/el/isd/ieee/tutorial-basic.pdf.*

[9] The Exchange's primary clock ordinarily derives its time from the primary Exchange-managed GPS receiver; however, in certain failover or impairment scenarios, the system may temporarily synchronize to an external time service to maintain continuity.

Exchange's System,[10] as well as its affiliated options and equities exchanges trading systems (collectively, the ''Cboe Trading System'') and feeds a time signal to the Exchange's timestamping devices and servers within the Exchange's own network using White Rabbit [11] and PTP. These capture devices are used to timestamp orders and messages as they travel through the Exchange's System.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. Today, the Exchange understands many participants attempt to sync their primary clock devices to the U.S. Government provided GPS network. By getting the GPS signal through a GPS capable antenna, participants can synchronize their primary clock device to the GPS network time to within an accuracy of approximately 30 nanoseconds. From there, by using a PTP time synchronization protocol, participants can synchronize their internal devices to their primary clock devices.

Because the Exchange and participants independently access time signals from the U.S. government provided GPS network to synchronize their own primary clock devices, measurement times of market events by the Exchange and a participant may vary. This may, in turn, lead to incorrect latency measurements that may cause a participant's time calculations of how long it took for their order or message to leave their systems and reach the trading center to which it was sent to. This may impair the participant's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.

Under the proposed Clock Service, participants would be able to synchronize their own primary clock devices to the Exchange's primary clock device, by receiving White Rabbit time signals from the Exchange via a 1 gigabit per second (''Gbps'') Physical Port. The proposed Clock Service simply provides participants with the Exchange's time signal at a more granular level, and, as part of the Clock Service, participants will receive a 1 Gbps Physical Port offered by the Exchange in order to connect.[12] The improved time signal would tell the participant the Exchange's time at a more granular level at a particular point in time. The subscribing participant may then use that time signal to synchronize their own primary clock to the Exchange's primary clock.

Some participants may currently have a White Rabbit clock synchronization [13] device within their own network. This device is not provided by the Exchange. Other participants that do not currently utilize White Rabbit clock synchronization device and optics would need to acquire one from a third-party vendor, of which there are several providers.[14]

Participants may use the proposed Clock Service for numerous purposes. For one, the proposed Clock Service would allow participants to more precisely measure latency between their network and that of the Exchange. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange.

Participants may use the proposed Clock Service to analyze the efficiency of their network and connections when not only routing orders to the Exchange, but also when receiving messages back from the Exchange. These messages include communications regarding whether their order was accepted, rejected, or executed. Participants may measure message traversal times by comparing their message's (*e.g.,* order, quote, cancellation, etc.) timestamp to the Exchange's matching engine timestamp from the Exchange-generated acknowledgement messages (*e.g.,* order acknowledgment, quote acknowledgment, cancellation acknowledgment, etc.).[15] Participants may then enhance their own systems to ensure that they are receiving such communications in a timelier manner and to verify that their systems are working as intended. Participants may then utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. In particular, participants may use these metrics to better assess the health of their network and that their systems are working as intended. For example, a participant may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A subscriber may then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. Subscribers may also use the proposed Clock Service for other purposes, such as trade surveillance. Subscribers may also utilize time synchronization to assist them in evaluating compliance with certain clock synchronization requirements.

The proposed Clock Service would be described under proposed Rule 13.8(j), which would provide that:

> Clock Service utilizes White Rabbit and Precision Time Protocol (''PTP'') for synchronizing device clocks by leveraging technology designed to maintain tightly aligned timing across systems. Clock Service enables subscribers to synchronize their internal devices to the same time as the Exchange devices with high precision.

The Exchange does not propose to provide a new connectivity option to receive time signals via the proposed Clock Service; rather, dedicated 1 Gbps Physical Ports available will be included as part of this Clock Service.[16] The proposed Clock Service provides enhanced time synchronization that may be utilized by subscribing participants to adjust their own systems. The Exchange does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal. Participants may continue to use their existing methods to connect to and send orders to the Exchange. The proposed Clock Service will not include any trading data regarding the subscriber's activity on the Exchange or include any data from other trading activity on the Exchange.

[10] The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Rule 1.5(cc).

[11] White Rabbit is a high-precision time synchronization technology that combines PTP with synchronous ethernet to achieve up to sub-nanosecond accuracy.

[12] The Exchange notes that MIAX Emerald, LLC similarly requires a 1 Gbps connection in order to utilize its respective clock service.

[13] A White Rabbit clock synchronization device has the technological ability to capture time and coordinate time synchronization within a network up to a sub-nanosecond level.

[14] The Exchange notes that participants are responsible for procuring the applicable license(s) as needed.

[15] The Exchange sends Members an acknowledgement message that their order or message was received by the Exchange. This acknowledgement includes the time of receipt at a microsecond level; however, the Exchange intends to update the time of receipt to be at a nanosecond by the end of March. The Exchange further notes that participants who subscribe to any one of the optional reports offered by Cboe Timestamping Services (*see* Rule 13.8(i)) will have additional timestamps to analyze.

[16] The Exchange notes that the 1 Gbps Physical Port that a participant shall receive as part of this Service shall be used solely for the purposes of the Clock Service and will not be able to be used for any other purpose (*e.g.,* order routing).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] 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) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Trading technology in the U.S. market is constantly evolving and providing market participants with tools to increase speed and reduced latency opportunities. Today, the Exchange provides participants timestamp information in microseconds.[20] The Exchange and its participants independently access time signals from GPS and use those time signals to synchronize their own primary clock devices. Even though both the Exchange and participants synchronize to GPS, differences among GPS receivers may vary by about 30 nanoseconds, with the potential for further deviation based on a participant's infrastructure. In today's market, such a potential inaccuracy in a subscriber's latency measurements is meaningful and potentially impactful to the performance of their trading strategies.

The proposed Clock Service addresses this issue by enabling subscribers to synchronize their primary clock device with the Exchange's by utilizing technology that allows up to a sub-nanosecond level. For example, the proposed Clock Service would allow subscribers to timestamp a quote sent from their system to the very same quote timestamped by the Exchange and have confidence that the time delta between timestamps is attributable to latency and not due to a potential offset in their primary clocks as discussed above. The Exchange, therefore, believes the proposed Clock Service promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market because it would allow latency sensitive subscribers to measure latency in a manner consistent with their trading behavior and the evolving pace of trading and technology in today's markets. Time synchronization removes impediments to and perfects the mechanism of a free and open market because it would provide Members with a tool to assess and re-calibrate their systems at a more acute level that is in line with the increasing speeds at which today's markets operate.

The proposed Clock Service provides participants with the Exchange's time signal. The time signal provided by the proposed Service could be beneficial in multiple areas, one of which is enabling subscribers to more precisely measure latency between their network and that of the Exchange by utilizing technology that allows up to a sub-nanosecond level. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange through more granular latency measurements. The proposed Clock Service is, therefore, consistent with Section 6(b)(5) of the Act because a more granular latency measurement would enable latency sensitive subscribers to more precisely calculate and thus better understand and manage their own latency.

Subscribers may utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. The ability to more precisely measure network efficiency could provide subscribers with a set of metrics that allow them to better assess the health of their network and that their systems are working as intended. The Exchange anticipates that most, if not all, subscribers to the proposed Clock Service would be those whose trading models are latency sensitive; however, managed service providers may also subscribe in order to redistribute the Cboe Clock to their downstream clients.

The Exchange believes providing this optional clock synchronization service to interested subscribers is, therefore, consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

As noted above, MIAX Emerald currently offers a clock service that has been reviewed and approved by the Commission.[21] MIAX Emerald's clock service is substantially similar to the proposed Clock Service as both offerings synchronize a subscriber's time recording systems to those of the exchange at a more granular level for highly correlated latency measurements between the exchange's and the subscriber system's time measurements related to the same message or order. Both offerings allow subscribers to synchronize their own primary clock devices to the exchange's primary clock device, by receiving time signals from the 1 Gbps connection.

One key distinction between the Exchange's proposed Clock Service and MIAX Emerald's similar offering is that the Exchange includes a 1 Gbps Physical Port as part of its offering for this Clock Service.[22] Similar to MIAX Emerald, this 1 Gbps Physical Port will be used solely for the Clock Service offering.[23] However, a participant that purchases the Exchange's Clock Service will only need one 1 Gbps Physical Port to receive this service for the Exchange and its affiliated equities and options exchanges.[24]

Additionally, MIAX Emerald's offering also utilizes White Rabbit technology.[25] with both services synchronizing a subscriber's time recording systems to those of the respective exchange at a more granular level for highly correlated latency measurements between the respective exchange's and the subscriber system's time measurements related to the same message or order.

The proposed Clock Service also protects investors and the public

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] The Exchange intends to provide this information in nanoseconds by the end of March.

[21] *See* Securities Exchange Act Release No. 94335 (March 1, 2022), 87 FR 12756 (March 7, 2022) (SR–EMERALD–2021–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service) (''Approval Order'').

[22] As noted above, MIAX also requires a 1 Gbps connection.

[23] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31002 (May 20, 2022) (SR–EMERALD–2022–16).

[24] MIAX Emerald's affiliates do not offer this service, thus the 1 Gbps connection is only used for the MIAX Emerald clock service while the Exchange's proposed offering allows for the Clock Service to be used for the Exchange and its affiliated options and equities exchanges.

[25] *See* MIAX_Emerald_Options_EnhancedPTP_WhiteRabbit_08302021.pdf, noting the White Rabbit technology that is used for this service offering.

interest because subscribers may use the Clock Service for determining compliance with trade surveillance and to assist them in evaluating compliance with certain clock synchronization requirements.[26]

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as it will be available to all Members and non-Members who choose to subscribe. Use of the proposed Clock Service would be voluntary and no Member or non-Member would be required to subscribe to the proposed Clock Service.[28] The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. Participants that choose not to subscribe to the proposed Clock Service are free to utilize other time synchronization methods or services that may assist them in time synchronization of their systems at a more granular level. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. For example, certain participants employ business models that are not latency sensitive, such as those that only enter resting liquidity.

Lastly, the Exchange believes the proposed changes to the title of Rule 13.8 promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes will provide greater clarity to participants and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion

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. In this instance, the proposed rule change to offer the optional Clock Service is in response to participant interest and requests for tools that would enable them to better measure traversal times between their network and that of the Exchange at a more granular level.

Intra-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on intra-market competition between participants that choose to subscribe to the Clock Service and those participants that do not. The proposed Clock Service would provide participants with the ability to synchronize their primary clock devices with the Exchange's primary clock device by utilizing technology that allows up to a sub-nanosecond level, which they may then use to measure their network's efficiency to determine whether their systems are performing as expected.

The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. Additionally, some participants may be able to enhance their own traversal time calculations without subscribing to the proposed Clock Service by using other time synchronization methods or utilize some other services that may assist them in time synchronization of their systems. Participants may also prefer to utilize or develop other methods that would enable them to determine whether their own primary clock device is recording time in close proximity to the primary clock devices of other market participants. Participants may view these alternatives as more in line with their business needs or choose an alternative that is more compatible with their existing technology.

Inter-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on inter-market competition. The proposed Clock Service will further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. As previously noted, MIAX Emerald provides a clock service to its Members.[29] The proposed Clock Service would provide subscribers with a tool to assist them in recalibrating their own models and trading strategies to improve their overall experience on the Exchange, thereby potentially improving execution and order fill rates. This may improve the Exchange's overall market quality through increased liquidity and improved execution opportunities for resting orders, enhancing the Exchange's overall competitive position. The proposed rule change should enhance competition by promoting further initiatives and innovation among market centers and market participants as it concerns time measurements and synchronization among trading platforms.

Lastly, if the proposed Clock Service is unattractive to participants, participants will opt not to subscribe to it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of participants or competing order execution venues to maintain their competitive standing in the financial market.

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)[30] of the Act and Rule 19b–4(f)(6)[31] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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[32] and Rule 19b–4(f)(6) thereunder.[33]

[26] *See* Rule 4.6.

[27] 15 U.S.C. 78f(b)(5).

[28] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[29] *See* MIAX Emerald Fee Schedule, Section 8, Services.

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6).

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing

Continued

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [34] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and 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–2026–014 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–2026–014. 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–2026–014 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06151 Filed 3–30–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105098; File No. SR–CBOE–2026–027]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Apply Its Wide Market Protection Mechanism on a Trading Session-By-Trading Session Basis

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 20, 2026, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 Rule 5.34(a)(5) to permit the Exchange to apply its wide market protection mechanism on a trading session-by-trading session basis.[3] The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

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

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

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

1. Purpose

The purpose of this rule filing is to amend Rule 5.34(a), Order and Quote Price Protection Mechanisms and Risk Controls (Simple Orders). Specifically, the Exchange proposes changes to the wide market protection mechanism set forth in Rule 5.34(a)(5). By way of background, the wide market protection mechanism is designed to reduce the risk of orders executing at extreme or adverse prices when the NBBO is determined to be wide. The wide market protection mechanism leverages the Exchange's iterative drill-through protection mechanism for certain orders when the NBBO is wide and initiates a drill-through pause on applicable inbound market or limit orders or elected Stop (Stop-Loss) [4] or Stop-Limit [5] orders which would either execute or post to the Book [6] at potentially extreme prices. Current Rule 5.34(a)(4)(B) provides that the wide

of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] The term ''trading session'' means the hours during which the Exchange is open for trading for Regular Trading Hours, Global Trading Hours or Curb Trading Hours (each of which may referred to as a trading session), each as set forth in Rule 5.1. Unless otherwise specified in the Rules or the context otherwise indicates, all Rules apply in the same manner during each trading session. *See* Rule 1.1.

[4] A ''Stop (Stop-Loss)'' order is an order to buy (sell) that becomes a market order when the consolidated last sale price (excluding prices from complex order trades if outside of the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User. Users may not designate a Stop Order as All Sessions. Users may not designate bulk messages as Stop Orders. A User may not designate a Stop order as Direct to PAR. *See* Rule 5.6(c) (definition of ''Stop (Stop-Loss)'' order).

[5] A ''Stop-Limit'' order is an order to buy (sell) that becomes a limit order when the consolidated last sale price (excluding prices from complex order trades if outside the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User. A User may not designate a Stop-Limit Order as All Sessions or RTH and Curb. Users may not designate bulk messages as Stop-Limit Orders. A User may not designate a Stop-Limit order as Direct to PAR. *See* Rule 5.6(c) (definition of ''Stop-Limit'' order).

[6] ''Book'' means the electronic book of simple orders and quotes maintained by the System, which single book is used during both the regular trading hours and global trading hours trading sessions. *See* Rule 1.1 (definition of, ''Book'').

market protection mechanism applies during all trading sessions except for a predetermined amount of time prior to the close of the RTH and Curb trading sessions (such time will be determined by the Exchange).

Pursuant to current Rule 5.34(a)(5)(D), the Exchange may apply the wide market protection mechanism on a class-by-class basis. The Exchange proposes to amend current Rule 5.34(a)(4)(D)[7] to permit the Exchange to apply the wide market protection mechanism on a trading session-by-trading session basis as well. As part of the proposed change, the Exchange proposes to delete current Rule 5.34(a)(4)(B) and add to current Rule 5.34(a)(4)(D) language contained within Rule 5.34(a)(4)(B), which provides that the wide market protection mechanism will not apply during a predetermined amount of time prior to the close of the RTH and Curb trading sessions (such time will be determined by the Exchange).

Finally, the Exchange proposes to amend Rule 5.34(a)(5)(A)(i). Currently, Rule 5.34(a)(5)(A)(i) states that for purposes of the wide market protection mechanism, the NBBO is ''wide'' if there is no NBO or the width of the NBBO for the series is equal to or greater than an amount the Exchange determines on a class-by-class basis and which is applied based on the NBB; the Exchange proposes to amend this provision to provide that the Exchange-determined amount may also be determined on a trading session-by-trading session basis.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] 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)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors. In general, the wide market protection is designed to protect market participants from executing transactions at potentially extreme prices. The proposed change to permit the Exchange to apply its wide market protection mechanism on a trading session-by-trading session basis is designed to better tailor the protection in a way that better reflect the trading environment of each trading session.

The Exchange believes the proposed change to apply the wide market protection on a trading session-by-trading session basis is reasonable, because, similar to trading in different classes, trading in different trading sessions may result in different trading considerations due, for example, to different trading characteristics, liquidity profiles, and market conditions. The proposal will provide the Exchange with flexibility to apply wide market protections in a manner which accounts for these differences across trading sessions, thereby enhancing investor protection while minimizing unnecessary market disruption.

Similarly, the Exchange believes the proposal to amend the wide market protection mechanism rules to provide that the Exchange-determined amount used in ascertaining whether the NBBO is wide may vary by trading session is reasonable. The Exchange believes the proposed change will allow it to more precisely tailor the wide market mechanism in a way that considers the trading characteristics of each class within each trading session. Permitting the Exchange to calibrate the wide market mechanism on a class-by-class and/or trading session-by-trading session basis provides the Exchange with flexibility necessary to account for the full range of trading characteristics and market conditions that may vary across both classes and trading sessions.

The Exchange also believes the proposed change to contain all information regarding the applicability of wide market protection mechanism as it relates to trading sessions within a singular provision is reasonable, as it will bring transparency and clarity to the rulebook, to the benefit of investors.

Finally, the Exchange believes the proposed changes are not unfairly discriminatory, as wide market protection will apply uniformly to all applicable orders in a trading session in the same manner.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change will apply uniformly to all applicable orders in a trading session in the same manner. This approach is consistent with the Exchange's existing practice of applying the wide market mechanism on a class-by-class basis, where product characteristics may warrant differential treatment in regard to risk protections.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed rule change relates specifically to price protections offered on the Exchange and which orders are subject to the price protection mechanism.

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) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has

[7] As part of the proposed change, the Exchange proposes to amend current Rules 5.34(a)(4)(C) and (D) to Rules 5.34(a)(4)(B) and (C), respectively.

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

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

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b-4(f)(6) [14] thereunder.

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2026–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CBOE–2026–027. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2026–027 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

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BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA–186; File No. SIPC–2026–01]

Securities Investor Protection Corporation; Order Approving the Determination of the Board of Directors of the Securities Investor Protection Corporation Not To Adjust for Inflation the Standard Maximum Cash Advance Amount and Notice of the Standard Maximum Cash Advance Amount

March 26, 2026.

I. Background

On January 6, 2026, the Securities Investor Protection Corporation (''SIPC'') filed with the Securities and Exchange Commission (''Commission''), under section 3(e)(2)(A) of the Securities Investor Protection Act of 1970 (''SIPA''),[1] notification that SIPC's Board of Directors (the ''SIPC Board'' or the ''Board'') had determined pursuant to section 9(e)(1) of SIPA [2] that the standard maximum cash advance amount available to satisfy customer claims for cash in a SIPA liquidation proceeding would remain at $250,000 beginning January 1, 2027, and for the five-year period immediately thereafter. The Commission published for comment notice of the SIPC Board's determination in the **Federal Register** on January 21, 2026.[3] The Commission did not receive any comments. The Commission today is approving, by order, the SIPC Board's determination. As required by SIPA,[4] the Commission is also publishing notice that the standard maximum cash advance amount will remain $250,000 beginning January 1, 2027, and for the five-year period immediately thereafter.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') [5] amended SIPA to raise the ''standard maximum cash advance amount'' from $100,000 to $250,000 per customer.[6] The amendments to SIPA aligned that amount with the maximum insurance amount provided by the Federal Deposit Insurance Corporation (''FDIC'') to customers of a failed bank. The Dodd-Frank Act also amended SIPA to require the SIPC Board to determine, no later than January 1, 2011, and every five years thereafter, whether an inflation adjustment to the standard maximum cash advance amount available to satisfy customer claims in a SIPA liquation proceeding is appropriate.[7] Any adjustment to the standard maximum cash advance amount takes effect on January 1 of the year immediately succeeding the calendar year in which the adjustment is made.[8] Under SIPA, the determination by the SIPC Board to maintain the standard maximum cash advance amount is subject to the same process of public notice and approval by the Commission as is the case for SIPC proposed rule changes.[9] Moreover, the Commission shall publish notice of the standard maximum cash advance amount in the **Federal Register** no later than April 5 of any calendar year in which SIPC is required to determine whether an inflation adjustment is appropriate.[10]

II. Determination of the SIPC Board Not To Adjust the Standard Maximum Cash Advance Amount

As described above, SIPC filed with the Commission notification that the SIPC Board had determined not to raise the standard maximum cash advance amount above $250,000, and thereby maintain it at that level for the five-year period beginning January 1, 2027. In its filing, SIPC stated that applying the inflation formula prescribed by SIPA in this instance would have increased the standard maximum cash advance

[1] 15 U.S.C. 78ccc(e)(2)(A).

[2] 15 U.S.C. 78fff–3(e)(1).

[3] *See Securities Investor Protection Corporation,* Release No. SIPA–185 (Jan. 14, 2026), 91 FR 2579 (Jan. 21, 2026) (File No. SIPC–2026–01).

[4] 15 U.S.C. 78fff–3(e)(3)(A).

[5] Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[6] In a liquidation of a broker-dealer performed under SIPA, where the customer property in the broker-dealer's estate is insufficient to meet a customer's eligible claim for cash, SIPC advances up to $250,000 (*i.e.,* the *standard maximum cash advance amount*) to the customer to satisfy that claim. *See* 15 U.S.C. 78fff–3.

[7] 15 U.S.C. 78fff–3(e)(1). Most recently, in 2021, the Board determined to maintain the standard maximum cash advance amount at $250,000, which was approved by the Commission. *See Securities Investor Protection Corporation,* Release No. SIPA–183 (Jan. 27, 2021), 86 FR 7900 (Feb. 2, 2021) and *Securities Investor Protection Corporation,* Release No. SIPA–184 (Mar. 25, 2021), 86 FR 16651 (Mar. 30, 2021).

[8] 15 U.S.C. 78fff–3(e)(4).

[9] 15 U.S.C. 78fff–3(e)(1) and 15 U.S.C. 78ccc(e)(2).

[10] 15 U.S.C. 78fff–3(e)(3)(A).

amount by $100,000 (to $350,000) and that the SIPC Board weighed the factors it considered in making its determination against an increase of that amount. For the reasons discussed below, the SIPC Board determined not to make the inflation adjustment.

The SIPC Board is required under SIPA to consider the overall state of the SIPC Fund [11] and the economic conditions and the potential problems affecting members of SIPC.[12] In considering the overall state of the SIPC Fund and the economic conditions affecting members of SIPC, the Board reviewed its historical experience with advances from the SIPC Fund in past and present liquidation proceedings. In considering the potential problems affecting SIPC members, the Board reviewed the current state of the financial markets, technology advancements that may affect the securities industry, and recent and pending changes in legislation that may affect the securities industry. The Board stated that it believed consideration of these statutory factors did not warrant an inflation adjustment of the standard maximum cash advance amount.

SIPA also requires the SIPC Board to consider such other factors as the SIPC Board may determine appropriate.[13] Accordingly, the SIPC Board considered the current parity between the amount of the SIPC standard maximum cash advance amount and the ''standard maximum deposit insurance amount'' under the Federal Deposit Insurance Act (both at $250,000). SIPC stated that increases to the limit of protection for cash claims under SIPA historically have moved in lockstep with increases in FDIC deposit insurance and concluded that an inflation adjustment to the SIPA standard maximum cash advance amount without a corresponding adjustment to the FDIC standard maximum deposit insurance amount would result in an undesirable divergence between the two.

Further, SIPC indicated that the Board considered the relatively limited benefit that an inflation adjustment would provide to retail customers, based upon its experience that the number and size of unsatisfied customer claims of liquidations performed under SIPA has been relatively limited. The SIPC Board also considered that customer free credit balances at brokerage firms have not increased over the last four years despite recent robust inflation during the same period, as firms have increasingly utilized sweep programs [14] to move customer free credit balances from broker-dealers to banks. The Board also considered that despite the projected increase in the number securities accounts in the future, that the Board expects average free credit balances to show a stagnant or declining trend in the future. The SIPC Board considered views of the staffs of the Commission, the FDIC, the Financial Industry Regulatory Authority, the Securities Industry and Financial Markets Association, and the American Securities Association.

After considering these factors, the SIPC Board concluded that, on balance, an adjustment to the standard maximum cash advance amount was not appropriate, and determined that the standard maximum cash advance amount should remain at $250,000 per customer.

III. Discussion and Commission Order

Under SIPA, the determination by the SIPC Board to maintain the standard maximum cash advance amount is subject to the same process for the public notice and approval of SIPC proposed rule changes.[15] SIPA provides that within thirty-five days of the date of publication of the notice of filing of a proposed SIPC rule change in the **Federal Register**, or within such longer period ''as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which SIPC consents'', the Commission shall either approve such proposed rule change, or institute proceedings to determine whether such proposed rule change should be disapproved.[16] SIPC consented to extending the period for the Commission to approve SIPC's determination in this matter until March 31, 2026.[17] Further, SIPA provides that the Commission shall approve a proposed rule change if it finds that the proposed rule change is in the public interest and is consistent with the purposes of SIPA.[18]

The Commission finds, pursuant to section 3(e)(2)(D) of SIPA, that the determination of the SIPC Board to refrain from adjusting for inflation the standard maximum cash advance amount of $250,000 beginning January 1, 2027, and for the five-year period immediately thereafter is in the public interest and consistent with the purposes of SIPA. It was reasonable for the Board to examine the effect of past and current liquidation proceedings on the SIPC Fund and to review the financial markets, technological advancements and legislative developments when considering the statutorily-required factors (the overall state of the SIPC Fund, the economic conditions affecting members of SIPC, and the potential problems affecting SIPC members).

Maintaining parity between the standard maximum cash advance amount and the maximum amount of insurance provided by the FDIC is in the public interest and consistent with the purposes of SIPA. Providing a higher level of SIPA coverage for cash deposits of broker-dealer customers compared to FDIC-insured bank depositors could incentivize individuals to deposit cash at broker-dealers to maximize deposit protection rather than for investment purposes. This practice could raise questions about whether such deposits would be covered under SIPA, which provides ''customer'' status to those who have deposited cash with a SIPC member for the purpose of purchasing securities.[19] Keeping the SIPC standard maximum cash advance amount on parity with the maximum FDIC insurance amount, should limit the instances of individuals using brokerage accounts to hold cash for purposes other than for purchasing securities, which should minimize the instances of such deposits not being covered in liquidations performed under SIPA.

In addition, the SIPC Board's consideration of its historical experience with advances being generally sufficient to fulfil the cash claims of customers in SIPA liquidation was reasonable. For example, the total value of unsatisfied portion of eligible customer cash claims for the first 54 years of SIPC history amount to only approximately $25 million. The Board's consideration of recent trends in stable to declining levels of customer credit balances at broker-dealers, in part due to the increasing practice of ''sweeping'' customer cash from broker-dealer accounts to bank accounts, was appropriate. Moreover, not raising the standard maximum cash advance

[11] SIPC is required to establish and administer a broker-dealer liquidation fund (the ''SIPC Fund'') from which all expenditures by SIPC are to be made, including funds used to facilitate the liquidation of broker-dealers. *See* 15 U.S.C. 78ddd.

[12] 15 U.S.C. 78fff–3(e)(5).

[13] *Id.*

[14] A ''sweep program'' is a service proved by a broker-dealer where it offers to its customer the option to automatically transfer free credit balances of cash in the securities account of the customer to either a money market fund product an account at a bank whose deposits are insured by the FDIC. *See* 17 CFR 240.15c3–3(a)(17).

[15] 15 U.S.C. 78fff–3(e)(1) and 15 U.S.C. 78ccc(e)(2)(A).

[16] 15 U.S.C. 78ccc(e)(2)(B).

[17] *See* Letter from Hemant Sharma, Deputy General Counsel, SIPC, dated February 17, 2026.

[18] 15 U.S.C. 78ccc(e)(2)(D).

[19] *See* 15 U.S.C. 78*lll*(2)(B)(i).

amount should minimize the potential for unnecessary increases to assessments on members.

It is therefore ordered, pursuant to section 3(e)(2) of SIPA, that the determination by the SIPC Board that the standard maximum cash advance amount will remain at $250,000 beginning January 1, 2027, and for the five-year period immediately thereafter, be and hereby is approved.

IV. Notice of the Standard Maximum Cash Advance Amount

Section 9(e)(3)(A) of SIPA requires that the Commission publish the standard maximum cash advance amount in the **Federal Register** no later than April 5 of any calendar year in which SIPC is required to determine whether an inflation adjustment is appropriate.[20] Accordingly, the Commission is hereby providing notice that the standard maximum cash advance amount is $250,000 beginning January 1, 2027, and for the five-year period immediately thereafter.

By the Commission.

Vanessa A. Countryman,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105096; File No. SR–CboeBZX–2026–019]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.22 To Introduce the Exchange's Clock Service

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2026 Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[20] 15 U.S.C. 78fff–3(e)(3)(A).

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

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to amend Rule 11.22, to provide for the new service called the Clock Service. 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 11.22, to provide for the new service called the Clock Service.[3] The Clock Service is an optional product[4] available to Members and non-Members alike. In sum, a subscriber would be able to utilize the proposed Clock Service to synchronize their time recording systems to those of the Exchange for highly correlated latency measurements between the Exchange's and the subscriber's systems time measurements related to the same message or order. Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The proposed Clock Service is not novel to the securities markets and it is similar to the network time synchronization service currently offered by MIAX Emerald, LLC (''MIAX Emerald'').[5] The Exchange proposes to provide the Clock Service in response to participant demand for more precise and more accurate clock synchronization options with the Exchange's network.

The U.S. Government's Global Positioning System (''GPS'') clock[6] time signal is the benchmark by which the Exchange and most, if not all, Members and non-Members use to synchronize their internal primary clock devices.[7] Using the U.S. Government provided GPS time signals publicly available through the GPS network is a de facto standard for high precision time synchronization across geographically diverse locations. Typically, a GPS receiver connected to an antenna serves as a time signal source which feeds the Coordinated Universal Time (referred to as ''UTC'') to synchronize other clocks using Precision Time Protocol (''PTP'').[8]

The Exchange's primary clock[9] is the time source used to synchronize the Exchange's System,[10] as well as its

[3] The Exchange also proposes to amend the title of Rule 11.22 from ''Data Products'' to ''Data Products and Services.''

[4] A firm that chooses to subscribe to the proposed Clock Service may discontinue the Clock Service at any time if that firm determines that it is no longer useful or that alternatives better meet their business or system needs. The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[5] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31022 (May 20, 2022) (SR–EMERALD–2022–16).

[6] For a description of the GPS clock, see Official U.S. Government Information About the Global Positioning System (GPS) and Related Topic, available at *https://www.gps.gov/applications/timing/* (providing that ''[i]n addition to longitude, latitude, and altitude, the Global Positioning System (GPS) provides a critical fourth dimension—time. Each GPS satellite contains multiple atomic clocks that contribute very precise time data to the GPS signals. GPS receivers decode these signals, effectively synchronizing each receiver to the atomic clocks. This enables users to determine the time to within 100 billionths of a second, without the cost of owning and operating atomic clocks.'')

[7] *See* An Evaluation of Dependencies of Critical Infrastructure Timing Systems on the Global Positioning System (GPS), noting that ''the primary time synchronization sources for these systems are signals broadcast by Global Positioning System (GPS) satellites . . .''

[8] A primary clock device is a precision parent clock that provides timing signals to synchronized secondary child clocks as part of a standalone clock network. The term ''Coordinated Universal Time'' is defined as the ''international standard of time that is kept by atomic clocks around the world.'' See Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/Coordinated%20Universal%20Time* (last visited November 10, 2021). Coordinated Universal Time is the primary time standard by which the world regulates clocks and time. See *https://www.timeanddate.com/time/aboututc.html.* ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. See also ''IEEE–1588 Standard for a Precision Clock Synchronization Protocol for Networked Measurement and Control Systems'' available at *https://www.nist.gov/system/files/documents/el/isd/ieee/tutorial-basic.pdf.*

[9] The Exchange's primary clock ordinarily derives its time from the primary Exchange-managed GPS receiver; however, in certain failover or impairment scenarios, the system may temporarily synchronize to an external time service to maintain continuity.

[10] The term ''System'' shall mean the electronic communications and trading facility designated by

affiliated options and equities exchanges trading systems (collectively, the ''Cboe Trading System'') and feeds a time signal to the Exchange's timestamping devices and servers within the Exchange's own network using White Rabbit [11] and PTP. These capture devices are used to timestamp orders and messages as they travel through the Exchange's System.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. Today, the Exchange understands many participants attempt to sync their primary clock devices to the U.S. Government provided GPS network. By getting the GPS signal through a GPS capable antenna, participants can synchronize their primary clock device to the GPS network time to within an accuracy of approximately 30 nanoseconds. From there, by using a PTP time synchronization protocol, participants can synchronize their internal devices to their primary clock devices.

Because the Exchange and participants independently access time signals from the U.S. government provided GPS network to synchronize their own primary clock devices, measurement times of market events by the Exchange and a participant may vary. This may, in turn, lead to incorrect latency measurements that may cause a participant's time calculations of how long it took for their order or message to leave their systems and reach the trading center to which it was sent to. This may impair the participant's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.

Under the proposed Clock Service, participants would be able to synchronize their own primary clock devices to the Exchange's primary clock device, by receiving White Rabbit time signals from the Exchange via a 1 gigabit per second (''Gbps'') Physical Port. The proposed Clock Service simply provides participants with the Exchange's time signal at a more granular level, and, as part of the Clock Service, participants will receive a 1 Gbps Physical Port offered by the Exchange in order to connect.[12] The improved time signal would tell the participant the Exchange's time at a more granular level at a particular point in time. The subscribing participant may then use that time signal to synchronize their own primary clock to the Exchange's primary clock. Some participants may currently have a White Rabbit clock synchronization [13] device within their own network. This device is not provided by the Exchange. Other participants that do not currently utilize White Rabbit clock synchronization device and optics would need to acquire one from a third-party vendor, of which there are several providers.[14]

Participants may use the proposed Clock Service for numerous purposes. For one, the proposed Clock Service would allow participants to more precisely measure latency between their network and that of the Exchange. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange.

Participants may use the proposed Clock Service to analyze the efficiency of their network and connections when not only routing orders to the Exchange, but also when receiving messages back from the Exchange. These messages include communications regarding whether their order was accepted, rejected, or executed. Participants may measure message traversal times by comparing their message's (*e.g.,* order, quote, cancellation, etc.) timestamp to the Exchange's matching engine timestamp from the Exchange-generated acknowledgement messages (*e.g.,* order acknowledgment, quote acknowledgment, cancellation acknowledgment, etc.).[15] Participants may then enhance their own systems to ensure that they are receiving such communications in a timelier manner and to verify that their systems are working as intended. Participants may then utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. In particular, participants may use these metrics to better assess the health of their network and that their systems are working as intended. For example, a participant may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A subscriber may then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. Subscribers may also use the proposed Clock Service for other purposes, such as trade surveillance. Subscribers may also utilize time synchronization to assist them in evaluating compliance with certain clock synchronization requirements.

The proposed Clock Service would be described under proposed Rule 11.22(p), which would provide that:

> Clock Service utilizes White Rabbit and Precision Time Protocol (''PTP'') for synchronizing device clocks by leveraging technology designed to maintain tightly aligned timing across systems. Clock Service enables subscribers to synchronize their internal devices to the same time as the Exchange devices with high precision.

The Exchange does not propose to provide a new connectivity option to receive time signals via the proposed Clock Service; rather, dedicated 1 Gbps Physical Ports available will be included as part of this Clock Service.[16] The proposed Clock Service provides enhanced time synchronization that may be utilized by subscribing participants to adjust their own systems. The Exchange does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal. Participants may continue to use their existing methods to connect to and send orders to the Exchange. The proposed Clock Service will not include any trading data regarding the subscriber's activity on the Exchange or include any data from other trading activity on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange

the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Rule 1.5(aa).

[11] White Rabbit is a high-precision time synchronization technology that combines PTP with synchronous ethernet to achieve up to sub-nanosecond accuracy.

[12] The Exchange notes that MIAX Emerald, LLC similarly requires a 1 Gbps connection in order to utilize its respective clock service.

[13] A White Rabbit clock synchronization device has the technological ability to capture time and coordinate time synchronization within a network up to a sub-nanosecond level.

[14] The Exchange notes that participants are responsible for procuring the applicable license(s) as needed.

[15] The Exchange sends Members an acknowledgement message that their order or message was received by the Exchange. This acknowledgement includes the time of receipt at a microsecond level; however, the Exchange intends to update the time of receipt to be at a nanosecond by the end of March. The Exchange further notes that participants who subscribe to any one of the optional reports offered by Cboe Timestamping Services (see Rule 11.22(o)) will have additional timestamps to analyze.

[16] The Exchange notes that the 1 Gbps Physical Port that a participant shall receive as part of this Service shall be used solely for the purposes of the Clock Service and will not be able to be used for any other purpose (*e.g.,* order routing).

and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] 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) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Trading technology in the U.S. market is constantly evolving and providing market participants with tools to increase speed and reduced latency opportunities. Today, the Exchange provides participants timestamp information in microseconds.[20] The Exchange and its participants independently access time signals from GPS and use those time signals to synchronize their own primary clock devices. Even though both the Exchange and participants synchronize to GPS, differences among GPS receivers may vary by about 30 nanoseconds, with the potential for further deviation based on a participant's infrastructure. In today's market, such a potential inaccuracy in a subscriber's latency measurements is meaningful and potentially impactful to the performance of their trading strategies.

The proposed Clock Service addresses this issue by enabling subscribers to synchronize their primary clock device with the Exchange's by utilizing technology that allows up to a sub-nanosecond level. For example, the proposed Clock Service would allow subscribers to timestamp a quote sent from their system to the very same quote timestamped by the Exchange and have confidence that the time delta between timestamps is attributable to latency and not due to a potential offset in their primary clocks as discussed above. The Exchange, therefore, believes the proposed Clock Service promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market because it would allow latency sensitive subscribers to measure latency in a manner consistent with their trading behavior and the evolving pace of trading and technology in today's markets. Time synchronization removes impediments to and perfects the mechanism of a free and open market because it would provide Members with a tool to assess and re-calibrate their systems at a more acute level that is in line with the increasing speeds at which today's markets operate.

The proposed Clock Service provides participants with the Exchange's time signal. The time signal provided by the proposed Service could be beneficial in multiple areas, one of which is enabling subscribers to more precisely measure latency between their network and that of the Exchange by utilizing technology that allows up to a sub-nanosecond level. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange through more granular latency measurements. The proposed Clock Service is, therefore, consistent with Section 6(b)(5) of the Act because a more granular latency measurement would enable latency sensitive subscribers to more precisely calculate and thus better understand and manage their own latency.

Subscribers may utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. The ability to more precisely measure network efficiency could provide subscribers with a set of metrics that allow them to better assess the health of their network and that their systems are working as intended. The Exchange anticipates that most, if not all, subscribers to the proposed Clock Service would be those whose trading models are latency sensitive; however, managed service providers may also subscribe in order to redistribute the Cboe Clock to their downstream clients.

The Exchange believes providing this optional clock synchronization service to interested subscribers is, therefore, consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

As noted above, MIAX Emerald currently offers a clock service that has been reviewed and approved by the Commission.[21] MIAX Emerald's clock service is substantially similar to the proposed Clock Service as both offerings synchronize a subscriber's time recording systems to those of the exchange at a more granular level for highly correlated latency measurements between the exchange's and the subscriber system's time measurements related to the same message or order. Both offerings allow subscribers to synchronize their own primary clock devices to the exchange's primary clock device, by receiving time signals from the 1 Gbps connection.

One key distinction between the Exchange's proposed Clock Service and MIAX Emerald's similar offering is that the Exchange includes a 1 Gbps Physical Port as part of its offering for this Clock Service.[22] Similar to MIAX Emerald, this 1 Gbps Physical Port will be used solely for the Clock Service offering.[23] However, a participant that purchases the Exchange's Clock Service will only need one 1 Gbps Physical Port to receive this service for the Exchange and its affiliated equities and options exchanges.[24]

Additionally, MIAX Emerald's offering also utilizes White Rabbit technology.[25] with both services synchronizing a subscriber's time recording systems to those of the respective exchange at a more granular level for highly correlated latency measurements between the respective exchange's and the subscriber system's time measurements related to the same message or order.

The proposed Clock Service also protects investors and the public interest because subscribers may use the Clock Service for determining compliance with trade surveillance and to assist them in evaluating compliance

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] The Exchange intends to provide this information in nanoseconds by the end of March.

[21] *See* Securities Exchange Act Release No. 94335 (March 1, 2022), 87 FR 12756 (March 7, 2022) (SR–EMERALD–2021–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service) (''Approval Order'').

[22] As noted above, MIAX also requires a 1 Gbps connection.

[23] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31002 (May 20, 2022) (SR–EMERALD–2022–16).

[24] MIAX Emerald's affiliates do not offer this service, thus the 1 Gbps connection is only used for the MIAX Emerald clock service while the Exchange's proposed offering allows for the Clock Service to be used for the Exchange and its affiliated options and equities exchanges.

[25] *See MIAX_Emerald_Options_EnhancedPTP_WhiteRabbit_08302021.pdf,* noting the White Rabbit technology that is used for this service offering.

with certain clock synchronization requirements.[26]

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as it will be available to all Members and non-Members who choose to subscribe. Use of the proposed Clock Service would be voluntary and no Member or non-Member would be required to subscribe to the proposed Clock Service.[28] The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. Participants that choose not to subscribe to the proposed Clock Service are free to utilize other time synchronization methods or services that may assist them in time synchronization of their systems at a more granular level. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. For example, certain participants employ business models that are not latency sensitive, such as those that only enter resting liquidity.

Lastly, the Exchange believes the proposed changes to the title of Rule 11.22 promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes will provide greater clarity to participants and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

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. In this instance, the proposed rule change to offer the optional Clock Service is in response to participant interest and requests for tools that would enable them to better measure traversal times between their network and that of the Exchange at a more granular level.

Intra-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on intra-market competition between participants that choose to subscribe to the Clock Service and those participants that do not. The proposed Clock Service would provide participants with the ability to synchronize their primary clock devices with the Exchange's primary clock device by utilizing technology that allows up to a sub-nanosecond level, which they may then use to measure their network's efficiency to determine whether their systems are performing as expected.

The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended.

Additionally, some participants may be able to enhance their own traversal time calculations without subscribing to the proposed Clock Service by using other time synchronization methods or utilize some other services that may assist them in time synchronization of their systems. Participants may also prefer to utilize or develop other methods that would enable them to determine whether their own primary clock device is recording time in close proximity to the primary clock devices of other market participants. Participants may view these alternatives as more in line with their business needs or choose an alternative that is more compatible with their existing technology.

Inter-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on inter-market competition. The proposed Clock Service will further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. As previously noted, MIAX Emerald provides a clock service to its Members.[29] The proposed Clock Service would provide subscribers with a tool to assist them in recalibrating their own models and trading strategies to improve their overall experience on the Exchange, thereby potentially improving execution and order fill rates. This may improve the Exchange's overall market quality through increased liquidity and improved execution opportunities for resting orders, enhancing the Exchange's overall competitive position. The proposed rule change should enhance competition by promoting further initiatives and innovation among market centers and market participants as it concerns time measurements and synchronization among trading platforms.

Lastly, if the proposed Clock Service is unattractive to participants, participants will opt not to subscribe to it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of participants or competing order execution venues to maintain their competitive standing in the financial market.

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

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

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

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[30] and Rule 19b–4(f)(6)[31] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[26] *See* Rule 4.6.

[27] 15 U.S.C. 78f(b)(5).

[28] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[29] *See* MIAX Emerald Fee Schedule, Section 8, Services.

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6).

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–2026–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2026–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2026–019 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06152 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, April 2, 2026.

PLACE: The meeting will be held via remote means and at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: March 26, 2026.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–06159 Filed 3–27–26; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105090; File No. SR–TXSE–2026–003]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Implement a Warrant Performance Incentive Program

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2026, Texas Stock Exchange LLC (the ''Exchange'' or ''TXSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Texas Stock Exchange LLC (the ''Exchange'') filed a proposal to implement a warrant performance incentive program (the ''Rodeo Program'' or the ''Program'').

The text of the proposed rule change is available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*) at the Exchange's website (*https://txse.com/rule-filings*), 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 parts of such statements.

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

1. Purpose

The Exchange proposes to implement the Rodeo Program to provide Members [3] of the Exchange who submit an initial prepayment fee (''Prepayment Fee'') to the Exchange with a ticket redeemable for warrants that provide the right to purchase equity in the

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

[2] 17 CFR 240.19b–4.

[3] As defined in Rule 1.005(q), the term ''Member'' means any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act and which has been approved by the Exchange.

Exchange's parent holding company, TXSE Group Inc. (''TXSE Group''). Such warrants will vest upon the achievement of certain liquidity volume thresholds on the Exchange. The Rodeo Program will commence on September 1, 2026 and run for one year, concluding at the end of the business day on August 31, 2027 (''Rodeo Period''), subject to Exchange notice.[4] Members of the Exchange that participate in the Rodeo Program (''Participants'') that meet a certain liquidity volume threshold measured as the Participant's shares transacted on TXSE expressed as a percentage of TCV, as defined below (the ''Target Performance''), will also be subject to a further ''jump ball'' competition among one another in which the exercise price of their warrants will be assigned based on certain additional volume metrics (''Exercise Price Competition''), as further described below. The purpose of the Rodeo Program is to promote the long-term interests of the Exchange by providing incentives designed to encourage TXSE Members to contribute to the growth and success of the Exchange via actively providing liquidity on TXSE. Participants' potential equity interest in TXSE Group will also help to align long-term incentives among the Participants, the Exchange, and its parent company by providing Participants with the opportunity to share in the benefits of TXSE's increased enterprise value.

Each Member of the Exchange may become a Participant in the Rodeo Program by submitting all required documentation for participation in the Rodeo Program by May 1, 2026, and prepaying a $250,000 Prepayment Fee in advance of May 15, 2026.[5] Any such Participant will be issued a ''ticket'' indicating that the Participant has been accepted into the Rodeo Program and a ticket will be redeemable by Participants in exchange for warrants representing 100,000 shares of TXSE Group Voting Common Stock[6] (''TXSE Group Stock''), a portion of which will be eligible to vest every three calendar months during the Rodeo Program Period (each such period a ''Measurement Period'') based on the Target Performance on the Exchange, as described below. Participants that do not achieve the Target Performance but do achieve at least 50% of the Target Performance will be eligible for partial vesting, as further described below. The total number of tickets available is between 3 and 20 tickets among all Participants. If fewer than a total of three tickets would be issued, the Exchange will not operate the Rodeo Program and will return Prepayment Fees. Each Participant may receive up to three tickets. If fewer than 20 tickets are issued, any remaining tickets may be allocated at TXSE's discretion to Participants seeking additional tickets (including allowing the Exchange to issue Participants more than three tickets). If there is demand for more than 20 tickets, TXSE may, in its sole discretion, either: (i) reduce allocations to Participants seeking multiple tickets; or (ii) increase the total number of tickets (and corresponding shares) available for allocation. Tickets and warrants will be non-transferable except to an affiliate of the Participant, subject to certain restrictions and conditions.

Upon making the Prepayment Fee, a Participant will be able to apply the Prepayment Fee to various fees on the Exchange, including connectivity fees, market data fees, and membership fees (collectively, ''Rodeo Exchange Fees'').[7] Any unused portion of the Prepayment Fees of a Participant that submitted a single Prepayment Fee expires 30 months after the beginning of Measurement Period 1, as defined below. The expiration date of any unused portion of the Prepayment Fees of a Participant that submitted more than one Prepayment Fee will be extended by 24 months per additional Prepayment Fee submitted (*i.e.,* where a Participant submits two Prepayment Fees, the Prepayment Fees will expire after 54 months, where a Participant submits three Prepayment Fees, all three Prepayment Fees will expire after 78 months).

Participants' warrants will vest based upon achievement of Target Performance on the Exchange during each Measurement Period as follows: 10,000 shares of TXSE Group Stock per ticket for the Measurement Period from September 1, 2026 to November 30, 2026 (''Measurement Period 1''), 20,000 shares of TXSE Group Stock per ticket for the Measurement Period from December 1, 2026 to February 26, 2027 (''Measurement Period 2''), 30,000 shares of TXSE Group Stock per ticket for the Measurement Period from March 1, 2027 to May 31, 2027 (''Measurement Period 3''), and 40,000 shares of TXSE Group Stock per ticket for the Measurement Period from June 1, 2027 to August 31, 2027 (''Measurement Period 4''). Target Performance may be met by trading activity in any security available for trading on the Exchange. Where a Participant achieves between 50% and 74.99% of the Target Performance, 50% of the Participant's warrants allocable to that Measurement Period will vest. Where a Participant achieves between 75% and 99.99% of the Target Performance, 75% of the Participant's warrants allocable to that Measurement Period will vest.[8] Only vested warrants are eligible to be exercised and un-vested warrants are not exercisable. The total equity ownership of TXSE Group Stock, including any purchased through the exercise of vested warrants, shall be subject to the ownership limitations of the Seventh Amended and Restated Stockholders' Agreement of TXSE Group Inc. as amended (the ''TXSE Group Stockholders' Agreement'') and of the Sixth Amended and Restated Certificate of Incorporation of TXSE Group Inc. as amended (the ''TXSE Group Certificate of Incorporation'').[9]

[4] The Exchange may, in its sole discretion, delay the beginning of the Rodeo Period by issuing a circular to Participants notifying them of such delay at least two weeks in advance of September 1, 2026. Any such delay would push back the dates of the beginning and end of each of the Measurement Periods by the amount of the delay. Each Measurement Period would continue to be a three-month period and the Rodeo Period would remain a one-year period. The Exchange will not delay the beginning of the Rodeo Period by more than six months.

[5] While the Rodeo Program does not commence until September 1, 2026, the Prepayment Fee will immediately begin applying to any Rodeo Exchange Fees, as defined below.

[6] ''Voting Common Stock'' is defined in Article FOURTH (a)(i) of the Sixth Amended and Restated Certificate of Incorporation of TXSE Group Inc. (''TXSE Group CoI'').

[7] The Exchange notes that ''Rodeo Exchange Fees'' excludes transaction fees. As noted below, the Exchange expects that Participants will accumulate sufficient Rodeo Exchange Fees during the period before their Prepayment Fee expires and excluding transaction fees will allow the Exchange to generate revenue from trading activity and to have the Prepayment Fee apply more gradually over time.

[8] Where a Participant's warrants only partially vest because they do not achieve 100% or more of the Target Performance, any such partially vested warrants are not eligible for the Exercise Price Competition and will have an exercise price of $20.

[9] *See, e.g.,* Section 14 of the TXSE Group Stockholders' Agreement, which states that ''any Stockholder, either alone or together with its Related Persons (as defined in the Certificate of Incorporation), that is also a member of the Texas Stock Exchange (or its successor), may not beneficially own directly or indirectly shares of stock of the Company representing in the aggregate more than 20% of the then-outstanding shares of stock of the Company.''; Article SEVENTH(b) of the TXSE Group Certificate of Incorporation, which states that ''no Person, either alone or together with its Related Persons, shall be permitted at any time to beneficially own, directly or indirectly, shares of stock of the Corporation representing in the aggregate more than 40% of the then-outstanding shares of stock of the Corporation; and no Member, either alone or together with its Related Persons, may beneficially own, directly or indirectly, shares of stock of the Corporation representing in the aggregate more than 20% of the then-outstanding shares of stock of the Corporation.''

1. Requirements for Participation in the Rodeo Program

Participation in the Rodeo Program, which provides equity-like consideration in exchange for the provision of liquidity on the Exchange, is open to all TXSE Members. All TXSE Members may participate subject to their satisfaction of certain eligibility requirements, as described below. All applicants for participation in the Rodeo Program will be subject to the same eligibility criteria and all Participants will participate in the Rodeo Program on the same terms, conditions and restrictions.

To be eligible to be a Participant, an applicant must: (i) be an approved Member of the Exchange; (ii) be a registered broker-dealer pursuant to Section 15 of the Exchange Act; [10] (iii) qualify as an ''accredited investor'' as defined in Regulation D under the Securities Act of 1933; [11] (iv) have executed all required documentation for participation in the Rodeo Program by May 1, 2026, *i.e.,* the warrant agreement and confidentiality agreement; and (v) have tendered the Prepayment Fee no later than May 15, 2026.

Once an eligible applicant for the Rodeo Program has executed all required documentation for participation in the Rodeo Program and met the requirements set forth above no later than May 1, 2026, and has paid the Prepayment Fee no later than May 15, 2026, the applicant would be accepted into the Rodeo Program as a Participant and issued a ticket.

2. Application of Prepayment Fee

The Exchange will apply the Prepayment Fee to Rodeo Exchange Fees automatically on the Participant's monthly fee invoice. The Exchange will apply the Prepayment Fee to a Participant's Rodeo Exchange Fees regardless of whether the Participant achieves Target Performances or where the Participant finishes in the Exercise Price Competition.[12] Once a Participant has incurred Rodeo Exchange Fees whereby the total accumulated Rodeo Exchange Fees are equal to $250,000 multiplied by the number of Prepayment Fees submitted, all subsequently incurred Rodeo Exchange Fees will be billed and collected at the appropriate rates as defined in the TXSE Fee Schedule.

3. Measurement Periods—Shares Available, Target Performance, Vesting

Assuming that the full 20 tickets are issued, the Exchange will issue warrants representing 2,000,000 shares of TXSE Group Stock, which represent 6% of the fully diluted outstanding shares of TXSE Group Stock. Warrants received by Participants when they join the Rodeo Program vest at the end of the relevant Measurement Period. Where a Participant meets the Target Performance for the applicable Measurement Period, 100% of the Participant's warrants for that Measurement Period will vest. Where a Participant achieves between 50% and 74.99% of the Target Performance for the applicable Measurement Period, 50% of the Participant's warrants allocable to that Measurement Period will vest. Where a Participant achieves between 75% and 99.99% of the Target Performance for the applicable Measurement Period, 75% of the Participant's warrants allocable to that Measurement Period will vest.[13] When the warrants vest for a Measurement Period, Participants will have the right to exercise the warrants to purchase a certain amount of TXSE Group Stock for that Measurement Period. As noted above, each ticket held by a Participant is tied to warrants equal to 100,000 shares of TXSE Group Stock. The Target Performance for Participants will be based on achieving a set percentage of Total Consolidated Volume [14] (''TCV'') on TXSE during the applicable Measurement Period, as further described below. The Target Performance for any Participant must be achieved on a per ticket basis, meaning that where the Target Performance for a given measurement period is 0.025%, a Participant with two tickets has a total Target Performance for that Measurement Period of 0.05% to fully vest for both tickets. Where that Participant achieves 0.03% TCV on TXSE, that Participant would have achieved the Target Performance for one ticket for the Measurement Period. Where a Participant has three tickets in the same Measurement Period, that Participant's total Target Performance would be 0.075% of TCV on TXSE. Where that Participant achieves 0.07% TCV, that Participant would have achieved the Target Performance for two tickets for the Measurement Period.[15]

a. Measurement Period 1—September 1, 2026 Through November 30, 2026

If 20 tickets are issued and each Participant meets the Target Performance for each ticket, Participants' warrants would collectively vest 200,000 shares of TXSE Group Stock (each ticket has the opportunity to vest 10,000 shares of TXSE Group Stock) during Measurement Period 1, which would represent 0.6% of the fully diluted outstanding shares of TXSE Group Stock. The Target Performance for any Participant during Measurement Period 1 is 0.025% of TCV on TXSE during the Measurement Period. Thus, if a Participant achieves the Target Performance during Measurement Period 1, the Participant's full allotment of unvested warrants for that period will vest.

b. Measurement Period 2—December 1, 2026 Through February 26, 2027

If 20 tickets are issued and each Participant meets the Target Performance for each ticket, Participants' warrants would collectively vest 400,000 shares of TXSE Group Stock (each ticket has the opportunity to vest 20,000 shares of TXSE Group Stock) during Measurement Period 2, which would represent 1.2% of the fully diluted outstanding shares of TXSE Group Stock. The Target Performance for any Participant during Measurement Period 2 is 0.050% of TCV on TXSE during the Measurement Period. Thus, if a Participant achieves the Target Performance during Measurement Period 2, the Participant's full allotment of unvested warrants for that period will vest.

[10] 15 U.S.C. 78o.

[11] The purpose of this criterion relates to the ability of TXSE Group to sell securities (in this case, TXSE Group Stock) pursuant to an exemption from registration under the Securities Act of 1933. The definition of ''accredited investor'' under Rule 501(a)(1) of the Securities Act of 1933 includes any broker or dealer registered pursuant to Section 15 of the Act. As noted above, a Participant will be required to be registered as a broker or dealer pursuant to Section 15 of the Exchange Act. Therefore, all Participants will satisfy this criterion.

[12] With prior notice to the Exchange, a Participant may apply the Prepayment Fee to Rodeo Exchange Fees for other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's form BD).

[13] Where a Participant's warrants only partially vest because they do not achieve 100% or more of the Target Performance, any such partially vested warrants are not eligible for the Exercise Price Competition and will have an exercise price of $20.

[14] Total Consolidated Volume is calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan during the applicable Measurement Period excluding volume on days with a scheduled early market close, on the fourth Friday in June, and on the second Friday in December.

[15] In this instance, the Participant would have achieved the full 0.025% for the first two tickets and 0.02% for the third ticket. Tickets 1 and 2 would be fully vested and would be eligible for the Exercise Price Competition described below. The third ticket would be eligible for 75% partial vesting (0.02 TCV/0.025 Target Performance = 75%) but would receive a $20 exercise price and would not be eligible for the Exercise Price Competition.

c. Measurement Period 3—March 1, 2027 Through May 31, 2027

If 20 tickets are issued and each Participant meets the Target Performance for each ticket, Participants' warrants would collectively vest 600,000 shares of TXSE Group Stock (each ticket has the opportunity to vest 30,000 shares of TXSE Group Stock) during Measurement Period 3, which would represent 1.8% of the fully diluted outstanding shares of TXSE Group Stock. The Target Performance for any Participant during Measurement Period 3 is 0.075% of TCV on TXSE during the Measurement Period. Thus, if a Participant achieves the Target Performance during Measurement Period 3, the Participant's full allotment of unvested warrants for that period will vest.

d. Measurement Period 4—June 1, 2027 Through August 31, 2027

If 20 tickets are issued and each Participant meets the Target Performance for each ticket, Participants' warrants would collectively vest 800,000 shares of TXSE Group Stock (each ticket has the opportunity to vest 40,000 shares of TXSE Group Stock) of TXSE Group Stock during Measurement Period 4, which would represent 2.4% of the fully diluted outstanding shares of TXSE Group Stock. The Target Performance for any Participant during Measurement Period 4 is 0.125% of TCV on TXSE during the Measurement Period. Thus, if a Participant achieves the Target Performance during Measurement Period 4, the Participant's full allotment of unvested warrants for that period will vest.

e. Vesting

Where a Participant meets the Target Performance [16] for a particular Measurement Period, the warrants applicable to the number of shares of TXSE Group Stock available during that Measurement Period will vest. Where a Participant meets the Target Performance for the applicable Measurement Period, 100% of the Participant's warrants for that Measurement Period will vest. Where a Participant achieves between 50% and 74.99% of the Target Performance for the applicable Measurement Period, 50% of the Participant's warrants allocable to that Measurement Period will vest. Where a Participant achieves between 75% and 99.99% of the Target Performance for the applicable Measurement Period, 75% of the Participant's warrants allocable to that Measurement Period will vest. Where a Participant's warrants only partially vest because they do not achieve 100% or more of the Target Performance, any such partially vested warrants are not eligible for the Exercise Price Competition and will have an exercise price of $20.If a Participant does not achieve at least 50% of the Target Performance for a particular Measurement Period, those warrants will not vest and there will not be a later opportunity for them to vest.

Measurement period	Target performance (% TCV)	Shares available for vesting
1 (9/1/26–11/30/26)	0.025	10,000
2 (12/1/26–2/26/27)	0.05	20,000
3 (3/1/27–5/31/27)	0.075	30,000
4 (6/1/27–8/31/27)	0.125	40,000

As an example, a Participant that meets the Target Performance for Measurement Periods 1 and 3 and 55% of the Target Performance for Measurement Period 4 would have 60,000 shares of TXSE Group Stock vest (10,000 + 30,000 + (40,000 * .5)) with 10,000 vesting on December 1, 2026, 30,000 shares vesting on June 1, 2027, and 20,000 shares vesting on September 1, 2027. A Participant that meets the Target Performance for all Measurement Periods would have 100,000 shares of TXSE Group Stock vest (10,000 + 20,000 + 30,000 + 40,000) with 10,000 vesting on December 1, 2026, 20,000 vesting on March 1, 2027, 30,000 vesting on June 1, 2027, and 40,000 vesting on September 1, 2027.

4. Exercise Price Competition

a. Multiplier Adjusted Volume

For each Measurement Period, all Participants that meet the Target Performance for a ticket (''Fully Vesting Participants'') will also be assigned the exercise price of their warrants based on the Participant's ranking in total adjusted volume (''Multiplier Adjusted Volume''), calculated as total shares traded on the Exchange with certain types of transactions being subject to volume multipliers and thus counted as a multiple of the shares actually traded, as applicable, among other Fully Vesting Participants during that Measurement Period.[17] The higher the rank of a Fully Vesting Participant's Multiplier Adjusted Volume, the lower their exercise price will be. Fully Vesting Participants will be assigned an exercise price for their warrants based on the Fully Vesting Participant's ranking in the Multiplier Adjusted Volume among all Fully Vesting Participants during a Measurement Period. Multiplier Adjusted Volume applies only to exercise price assignment and does not have any impact on vesting or the Target Performance for any Measurement Period.

In calculating each Fully Vesting Participant's Multiplier Adjusted Volume, the volume multipliers are:

(i) *Intraspread Multiplier:* transactions for which the adding order added non-displayed liquidity and the execution occurs within the NBBO [18] are subject to a 2× multiplier;

(ii) *Auction Multiplier:* transactions in Opening Auctions [19] and Closing Auctions [20] for which the order is an Eligible Auction Order [21] in securities for which TXSE is the primary listing market are subject to a 10× multiplier;

(iii) *Add Displayed Volume Multiplier:* transactions for which the order adds displayed liquidity to the Exchange are subject to a 1.2× multiplier; and

(iv) *Enhanced Liquidity Symbol (ELS) Multiplier:* transactions in securities that are included in a list of securities which the Exchange believes could benefit from enhanced liquidity are subject to a 2× multiplier.

Multiplier Adjusted Volume is calculated as follows: ((number of shares in transactions that do not qualify for a multiplier) + (number of shares in transactions that qualify for Intraspread Multiplier × 2) + (number of shares in transactions eligible for the Auction Multiplier × 10) + (number of shares in transactions that qualify for the Add Displayed Volume Multiplier × 1.2) + (number of shares in transactions that qualify for the ELS Multiplier × 2))/

[16] With prior notice to the Exchange, a Participant may aggregate volume for purposes of calculating percentage of TCV and Multiplier Adjusted Volume, as defined below, with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's form BD).

[17] Warrants that partially vest based on failure to achieve Target Performance are not eligible for exercise price reduction.

[18] As provided in Rule 1.005(r), the term ''NBBO'' means the national best bid or offer.

[19] Opening Auction functionality is described in Rule 11.022(b).

[20] Closing Auction functionality is described in Rule 11.022(c).

[21] As provided in Rule 11.022(a)(8), the term ''Eligible Auction Order'' means any MOO, LOO, LLOO, MOC, LOC or LLOC order (each as defined below) that is entered in compliance with its respective cutoff for an Opening Auction (as defined below) or Closing Auction (as defined below), any RHO order prior to the Opening Auction, any limit or market order not designated to exclusively participate in the Closing Auction entered during the Quote-Only Period (as defined below) of an IPO Auction subject to the below restrictions, and any limit or market order not designated to exclusively participate in the Opening Auction or Closing Auction entered during the Quote-Only Period of a Halt Auction (as defined below).

(number of tickets issued to the Fully Vesting Participant). Transactions may qualify for more than one multiplier except that a transaction that is eligible for the Auction Multiplier is not eligible for other multipliers. For example, a transaction that would qualify for the ELS Multiplier and the Intraspread Multiplier will receive both the ELS Multiplier of 2× and the Intraspread Multiplier of 2×, as further explained in the example below.

The use of the Multiplier Adjusted Volume competition for calculating exercise price, including the inclusion of the four multipliers, is designed to create competition among Participants to increase the number of shares traded on the Exchange during each Measurement Period by creating an economic incentive for specific behavior that the Exchange believes would be beneficial to its market in addition to the Target Performance. The Intraspread Multiplier is designed to incentivize additional liquidity within the NBBO to provide better executions for incoming orders. The Auction Multiplier is designed to incentivize liquidity and participation in TXSE Opening and Closing Auctions as the Exchange stands up its listing business. The larger 10× multiplier for Opening and Closing Auction transactions is intended to make auction volume more impactful to the Multiplier Adjusted Volume calculation in order to promote enhanced liquidity in auctions on the Exchange. The Add Displayed Volume Multiplier is designed to generally incentivize Participants to add liquidity on the Exchange, enhancing the depth of liquidity on the TXSE book.

The ELS Multiplier is designed to incentivize: (i) tighter spreads, price improvement opportunities, and executions in a set of symbols that the Exchange believes could benefit from tighter spreads and price improvement opportunities and deeper liquidity (''Liquidity Improvement Symbols''); and (ii) additional liquidity to better compete for order flow in symbols that are generally high-volume symbols that have an average spread of greater than $0.01 and/or trade on away markets more intraday than on their primary listing market (''High-Volume Symbols''). The Exchange will apply several objective factors related to each security's trading characteristics and designate the securities that meet certain thresholds with respect to these factors as Liquidity Improvement Symbols or High-Volume Symbols. To be considered as Liquidity Improvement Symbols or High-Volume Symbols, a security must satisfy TXSE's initial listing standards.[22] The factors for Liquidity Improvement Symbols are average daily volume, off-exchange volume, auction dislocation, quoted and effective spreads, and whether a symbol trades on away markets more intraday than on their primary listing market. The factors for determining High-Volume Symbols include trading volume, average spread, and whether a symbol trades on away markets more intraday than on their primary listing market. The goal in creating these lists is to identify securities in which tighter spreads and price improvement opportunities and increased transaction volume would be impactful to investors, the Exchange, and the broader market, as well as securities that have higher trading volume but could still benefit from increased liquidity. For High-Volume Securities, the Exchange will include 175 symbols that will be included as securities eligible for the ELS Multiplier (''ELSM Securities'') based on their rank within the High-Volume Securities screener using the factors described above. For Liquidity Improvement Symbols, the Exchange would screen the universe of remaining securities based on the factors described above and select 175 securities that will be included as ELSM Securities. The Exchange notes that it plans to offer listings for corporate securities in the near future and the ELS Multiplier will help the Exchange demonstrate proficiency and commitment to enhancing market quality in securities that the Exchange believes could or should have tighter spreads and deeper quotes which could help the Exchange compete as a primary listing venue in addition to the above stated benefits to investors, the Exchange, and the broader market. All TXSE-listed corporate securities will also be ELSM Securities (including both primary and dual-listings) in addition to the universe of securities selected as ELSM Securities described above. The Exchange also notes that the methodology for establishing ELSM Securities is analogous to that used in comparable programs designed to enhance market quality on other exchanges.[23]

The Exchange will publish the list of ELSM Securities on its website at least 15 calendar days prior to the start of the Rodeo Program Period. The Exchange will also publish the list of ELSM Securities for a new Measurement Period on its website at least 15 calendar days prior to the beginning of the Measurement Period. The Exchange does not generally expect to change the list of ELSM Securities within a Measurement Period, but where it does make changes within a Measurement Period (*e.g.,* new listings on TXSE), it will post notice of any changes to its website along with an updated list of ELSM Securities at least one day prior to such changes going into effect.

As an example, assume a Fully Vesting Participant has traded 2,000,000 shares on TXSE that qualify for only the Intraspread Multiplier, 1,000,000 that qualify for only the Auction Multiplier, 2,000,000 that qualify for only the Add Displayed Volume Multiplier, and 1,000,000 that qualify for only the ELS Multiplier. 500,000 shares qualify for both Intraspread Multiplier and ELS Multiplier (and are excluded from the 2,000,000 and 1,000,000 counts above, respectively). 250,000 shares qualify for both Add Displayed Volume Multiplier and ELS Multiplier (and are excluded from the 2,000,000 and 1,000,000 counts above, respectively). 5,000,000 shares did not qualify for a multiplier.

Transaction type	Volume
No multiplier	5,000,000
Intraspread Multiplier	2,000,000
Auction Multiplier	1,000,000
Add Displayed Volume Multiplier	2,000,000
ELS Multiplier	1,000,000

[22] *See* Rule 16.310.

[23] *See, e.g.,* Securities Exchange Act Release Nos. 98472 (September 21, 2023), FR 88 66533 (September 27, 2023) (SR–PEARL–2023–45); 103131 (May 27, 2025), 90 FR 23397 (June 2, 2025) (SR–IEX–2025–07); and 103517 (July 22, 2025), 90 FR 35325 (July 25, 2025) (SR–LTSE–2025–16).

Transaction type	Volume
Intraspread and ELS	500,000
Add Displayed and ELS	250,000

Because transactions that qualify for more than one multiplier receive both multipliers, the transactions eligible for both Intraspread and ELS Multipliers are eligible for both multipliers will be subject to a 4× multiplier and the transactions eligible for Add Displayed and ELS Multipliers will be subject to a 3.2× multiplier.

Transaction type	Volume	Multiplier	Multiplier adjusted volume
No multiplier	5,000,000	1×	5,000,000
Intraspread Multiplier	2,000,000	2×	4,000,000
Auction Multiplier	1,000,000	10×	10,000,000
Add Displayed Volume Multiplier	2,000,000	1.2×	2,400,000
ELS Multiplier	1,000,000	2×	2,000,000
Intraspread and ELS	500,000	4×	2,000,000
Add Displayed and ELS	250,000	3.2×	800,000
Total	11,750,000	.....	26,200,000

In this instance, where the Fully Vesting Participant's raw volume on TXSE during the Measurement Period was 11,750,000 shares, its Multiplier Adjusted Volume would be 26,200,000 after applying the appropriate multipliers. Because Multiplier Adjusted Volume is calculated on a firm-wide basis, this is the Fully Vesting Participant's Multiplier Adjusted Volume for all fully vested warrants regardless of how many tickets they have.

b. Exercise Price Assignment

To determine the Exercise price Assigned to a Fully Vesting Participant's warrants for a given Measurement Period, the Exchange will rank all Fully Vesting Participants by their Multiplier Adjusted Volume. Each Fully Vesting Participant's exercise price for a Measurement Period will be assigned as follows:

Multiplier adjusted volume rank	Exercise price
1	$1
2	3
3	5
4	7
5	9
6	11
7	13
8	15
9	17
All others	20

This exercise price chart will apply for all Measurement Periods. The Multiplier Adjusted Volume Rank is applied at the firm level (*e.g.,* where the first place Fully Vesting Participant has multiple tickets that fully vest, all of those tickets would have an exercise price of $1 and the second place Fully Vesting Participant would have an exercise price of $3). The applicable exercise price will apply for all of the Fully Vesting Participant's warrants for that Measurement Period. If multiple Fully Vesting Participants have the same Multiplier Adjusted Volume, those Fully Vesting Participants will receive the lower exercise price (*e.g.* where three Fully Vesting Participants all tie for third place, all three will receive the third-place exercise price and the Fully Vesting Participant with the next highest Multiplier Adjusted Volume will receive the sixth-place exercise price).

5. Exercising Vested Warrants

Each vested warrant shall be exercisable until seven years from the date of issuance. Vested warrants may be exercised when a Participant pays the exercise price of the warrant either through the payment of cash or pursuant to a cashless exercise feature. Warrants have not been registered under the Securities Act of 1933. The TXSE Group Stock is subject to transfer restrictions set forth in Section 3 of the TXSE Group Stockholders' Agreement.

6. Purpose of the Rodeo Program

All applicants will be subject to the same eligibility and designation criteria, and all Participants will participate in the Rodeo Program on the same terms, conditions and restrictions. To be eligible to be a Participant, an applicant must: (i) be an approved Member of the Exchange; (ii) be a registered broker-dealer pursuant to Section 15 of the Exchange Act; (iii) qualify as an ''accredited investor'' as defined in Regulation D under the Securities Act of 1933; (iv) have executed all required documentation for participation in the Rodeo Program by May 1, 2026, including the subscription agreement and confidentiality agreement; and (v) have tendered the Prepayment Fee no later than May 15, 2026. Participants may be, but are not required to be, current investors in TXSE Group, and the Exchange anticipates both current and potential new investors participating in the Rodeo Program.

As discussed above, the purpose of the Rodeo Program is to encourage Participants to direct order flow to the Exchange to enhance trading volume and market quality on the Exchange. Increased volume will provide for greater liquidity and enhanced price discovery, which benefits all market participants. Other exchanges have previously engaged in the practice of incentivizing increased order flow in order to attract liquidity providers through equity sharing arrangements.[24] The Rodeo Program similarly intends to attract increased order flow through the Target Performance and further to incentivize certain more specific trading activity through the Exercise Price Competition, the combination of which will provide greater trading opportunities, tighter spreads, and deeper liquidity for other market participants and cause a corresponding increase in order flow from these other market participants. The Rodeo Program will similarly reward the liquidity providers that provide additional volume and better align long-term

[24] *See, e.g.,* Securities Exchange Act Release Nos. 62358 (June 22, 2010), 75 FR 37861 (June 30, 2010) (SR–NSX–2010–06); 64742 (June 24, 2011), 76 FR 38436 (June 30, 2011) (SR–NYSEAmex–2011–18); 69200 (March 21, 2013), 78 FR 18657 (March 27, 2013) (SR–CBOE–2013–031); 74095 (January 20, 2015). 80 FR 4011 (January 26, 2015) (SR–MIAX–2015–02); 74114 (January 22, 2015), 80 FR 4611 (January 28, 2015) (SR–BOX–2015–03); 74576 (March 25, 2015), 80 FR 17122 (March 31, 2015) (SR–BOX–2015–16); 80909 (June 12, 2017), 82 FR 27743 (June 16, 2017) (SR–MIAX–2017–28); 83012 (April 9, 2018), 83 FR 16163 (April 13, 2018) (SR–PEARL–2018–08); 89730 (September 1, 2020), 85 FR 55530 (September 8, 2020) (SR–PEARL–2020–10); 100247 (May 30, 2024), 89 FR 48203 (June 5, 2024) (SR–MEMX–2024–21); 103210 (June 9, 2025), 90 FR 25107 (June 13, 2025) (SR–MEMX–2025–14); and 104018 (September 23, 2025), 90 FR 46437 (September 26, 2025) (SR–24X–2025–04).

incentives by providing a potential proprietary interest in TXSE Group.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5) of the Act,[26] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the requirement in Section 6(b)(5) of the Act [27] that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[28] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed Rodeo is equitable and not unfairly discriminatory, because all Participants may elect to participate (or elect not to participate) and warrants vest on the same terms and conditions, assuming they satisfy the eligibility criteria as described above. The eligibility criteria are objective; thus, all Participants have the ability to satisfy the eligibility criteria to obtain a ''ticket'' for participation. Any Participant that becomes a ticket holder and pays the Prepayment Fee and otherwise satisfies the eligibility criteria has the same opportunity for their warrants to vest through volume contributions. The Exchange believes that excluding transaction fees from the Rodeo Program Exchange Fees is fair, reasonable and not unfairly discriminatory because the Exchange expects that Participants will accumulate sufficient Rodeo Exchange Fees during the period before their Prepayment Fee expires and excluding transaction fees will allow the Exchange to generate revenue from trading activity and to have the Prepayment Fee apply more gradually over time. The Exchange believes that the cap of three tickets per Member is equitable and not unfairly discriminatory because it applies equally to all Members and provides a cap on any single entity's potential ownership stake in TXSE Group. The Exchange also believes that the cap of 20 tickets for the Rodeo Program is equitable and not unfairly discriminatory because it provides a cap on the amount of equity in TXSE Group available for the Rodeo Program. As described above, if there is Member interest in purchasing more than a total of 20 tickets, the Exchange has flexibility in how to allocate existing or additional tickets to Members. The volume performance requirements are the same for all Participants, and all Participants have the same opportunity to earn vested warrants on a proportional basis based upon meeting fixed volume threshold amounts during the Measurement Periods that will apply to all Participants. This ensures that all Participants will have the same opportunity to earn vested warrants and to exercise those warrants to purchase TXSE Group Stock if they so choose. As noted above, Participants may be, but are not required to be, current investors in TXSE Group, and the Exchange anticipates both current and potential new investors to participate in the Rodeo Program. The total equity ownership of TXSE Group Stock, including any purchased through the exercise of vested warrants, shall be subject to the ownership limitations of the TXSE Group Stockholders' Agreement and the TXSE Group Certificate of Incorporation.[29]

The Exchange believes that the methodology used to calculate the volume thresholds is fair, reasonable and not unfairly discriminatory because it is based on objective criteria that are designed to increase trading volume on the Exchange. The Rodeo Program is designed to reward Participants for directing order flow to the Exchange as a percentage of overall market volume, which is intended to help establish the Exchange as a destination for order flow while it builds its market share.

The Exchange believes that the Exercise Price Competition is consistent with the Act and is fair, reasonable and not unfairly discriminatory because the factors that go into the Multiplier Adjust Volume calculation are objective and designed to create competition among Participants to increase the number of shares traded on the Exchange during each Measurement Period by creating an economic incentive for specific behavior that the Exchange believes would be beneficial to its market in addition to the Target Performance by providing an opportunity for a lower exercise price on a Participant's warrants. The Exchange further believes that the specific multiples assigned to the volume multipliers are fair, reasonable and not unfairly discriminatory because they are designed to attract specific order flow to the Exchange and the Exchange has proposed multipliers that align with the benefits provided to all participants on the Exchange. The Auction Multiplier and the 10× multiple associated therewith is designed to incentivize liquidity and participation in TXSE Opening and Closing Auctions to the benefit of all participants in auctions on the Exchange and the 10× multiplier is intended to make sure that auction volume is properly incentivized as the Exchange starts its ETP and corporate listings business. The Intraspread Multiplier (2×) is designed to incentivize additional liquidity within the NBBO to provide better executions for incoming orders which will benefit all participants on the Exchange, which the Exchange views as particularly important to attract additional flow seeking potential price improvement. The Add Displayed Volume Multiplier (1.2×) is designed to generally incentivize Participants to add liquidity on the Exchange, enhancing the depth of liquidity on the TXSE book, to the benefit of all participants on the Exchange.

The ELS Multiplier is designed to incentivize: (i) tighter spreads, price improvement opportunities, and executions in Liquidity Improvement Symbols; and (ii) additional liquidity to better compete for order flow in High-Volume Symbols. The Exchange will apply several objective factors related to each security's trading characteristics and designate the securities that meet certain thresholds with respect to these factors as Liquidity Improvement Symbols or High-Volume Symbols. To be considered as Liquidity Improvement

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(4).

[29] *See, e.g.,* Section 14 of the TXSE Group Stockholders' Agreement, which states that ''any Stockholder, either alone or together with its Related Persons (as defined in the Certificate of Incorporation), that is also a member of the Texas Stock Exchange (or its successor), may not beneficially own directly or indirectly shares of stock of the Company representing in the aggregate more than 20% of the then-outstanding shares of stock of the Company.''; Article SEVENTH(b) of the TXSE Group Certificate of Incorporation, which states that ''no Person, either alone or together with its Related Persons, shall be permitted at any time to beneficially own, directly or indirectly, shares of stock of the Corporation representing in the aggregate more than 40% of the then-outstanding shares of stock of the Corporation; and no Member, either alone or together with its Related Persons, may beneficially own, directly or indirectly, shares of stock of the Corporation representing in the aggregate more than 20% of the then-outstanding shares of stock of the Corporation.''

Symbols or High-Volume Symbols, a security must satisfy TXSE's initial listing standards.[30] The factors for Liquidity Improvement Symbols include average daily volume, off-exchange volume, auction dislocation, quoted and effective spreads, and whether a symbol trades on away markets more intraday than on their primary listing market. The factors for determining High-Volume Symbols include trading volume, average spread, and whether a symbol trades on away markets more intraday than on their primary listing market. The goal in creating these lists is to identify securities in which tighter spreads and price improvement opportunities and increased transaction volume would be impactful to investors, the Exchange, and the broader market, as well as securities that have higher trading volume but could still benefit from increased liquidity. For High-Volume Securities, the Exchange will designate 175 symbols as ELSM Securities based on their rank within the High-Volume Securities screener using the factors described above. For Liquidity Improvement Symbols, the Exchange would screen the universe of remaining securities based on the factors described above and select 175 securities that will be included as ELSM Securities. The Exchange notes that it plans to offer listings for corporate securities in the near future and the ELS Multiplier will help the Exchange demonstrate proficiency and commitment to enhancing market quality in securities that the Exchange believes could or should have tighter spreads and deeper quotes which could help the Exchange compete as a primary listing venue in addition to the above stated benefits to investors, the Exchange, and the broader market. All TXSE-listed corporate securities will also be ELSM Securities (including both primary and dual-listings) in addition to the universe of securities selected as ELSM Securities described above. The Exchange also notes that the methodology for establishing ELSM Securities is analogous to that used in comparable programs designed to enhance market quality on other exchanges.[31]

The Exchange believes that allowing more than one multiplier to apply for transactions that qualify for more than one multiplier except for the Auction Multiplier is reasonable, fair and equitable because these multipliers are designed to incentivize particular activity on the Exchange. The Exchange particularly wants to incentivize transactions that offer liquidity within the NBBO, in ELSM Securities, and more generally add liquidity to the Exchange because, as stated above, there are significant benefits to all Exchange participants where liquidity exists at price levels within the NBBO and the Exchange is particularly interested in incentivizing tighter spreads and price improvement opportunities in symbols that it has identified as being impactful to investors, the Exchange, and the broader market. The Exchange is not proposing to apply more than one multiplier for the Auction Multiplier because it is already 10× and applies only to Eligible Auction Orders.

The Exchange believes the Rodeo Program is equitable and reasonable because an increase in volume and liquidity would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the Rodeo Program. Additionally, the Exchange believes the proposed rule change is consistent with the Act because, as described above, the Rodeo Program is designed to bring greater volume and liquidity to the Exchange, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Exchange believes that the proposed rule change will improve competition by providing market participants with an incentive and the opportunity to execute orders and post liquidity on the Exchange's market.

The Exchange believes that the proposed rule change would increase both intermarket and intramarket competition by incentivizing Participants to direct their orders to the Exchange, which will enhance the quality of quoting and increase the volume of securities traded on the Exchange. To the extent that there is an additional competitive burden on non-Participants, the Exchange believes that this is appropriate because the Rodeo Program should incentivize Participants to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its market and increases the volume of securities traded on the Exchange. To the extent that this purpose is achieved, the Exchange believes that all of the Exchange's market participants would benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

Given the robust competition for volume among equities markets, implementing a program to attract order flow like the one proposed in this filing is consistent with the above-mentioned goals of the Exchange Act. This is especially true for newer exchange markets, such as TXSE, which are competing for volume with much larger, established exchanges that dominate the equities trading industry. As a new exchange, TXSE will likely have a nominal percentage of the average daily trading volume in equities in the near term, so it is unlikely that the Rodeo Program could cause any competitive harm to the equities market or to market participants. Rather, the Rodeo Program is a modest attempt to attract order volume away from larger competitors by adopting an innovative pricing strategy. The Exchange notes that if the Rodeo Program results in a modest percentage increase in the average daily trading volume on the Exchange, while such percentage would represent a large volume increase for TXSE, it would represent a minimal reduction in the volume of its larger competitors in the industry. The Exchange believes that the Rodeo Program will help further competition, because market participants will have an additional option in determining where to execute orders and post liquidity if they factor the benefits of TXSE equity participation into the determination.

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

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

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [32] and Rule 19b–4(f)(2) [33]

[30] *See* Rule 16.310.

[31] *See, e.g.,* Securities Exchange Act Release Nos. 98472 (September 21, 2023), FR 88 66533 (September 27, 2023) (SR–PEARL–2023–45); 103131 (May 27, 2025), 90 FR 23397 (June 2, 2025) (SR–IEX–2025–07); and 103517 (July 22, 2025), 90 FR 35325 (July 25, 2025) (SR–LTSE–2025–16).

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(2).

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–TXSE–2026–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–TXSE–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 the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–TXSE–2026–003 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06149 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36072; 812–15991]

Regan Capital Alternative Income Fund and Regan Capital, LLC

March 26, 2026.

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

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees and early withdrawal charges.

APPLICANTS: Regan Capital Alternative Income Fund and Regan Capital, LLC.

FILING DATE: The application was filed on February 17, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time on April 20, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Alyssa M. Bernard, Regan Capital Alternative Income Fund, *alyssa.bernard@usbank.com;* with copies to Deborah Bielicke Eades, *deades@vedder.com* and Mark A. Quade, Vedder Price P.C., *mquade@vedder.com.*

FOR FURTHER INFORMATION CONTACT: Trace W. Rakestraw, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated February 17, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

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

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06140 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105088; File No. SR–NYSEARCA–2026–32]

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 Waive the Combined Cap on Submitting Broker Credits Paid for QCC Trades and Floor Broker Rebates Paid Through the Manual Billable Rebate Program for the Month of March 2026

March 26, 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 March 17, 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.

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

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

[3] 17 CFR 240.19b–4.

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

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (the ''Fee Schedule'') to waive the maximum combined Submitting Broker credits paid for QCC trades and Floor Broker rebates paid through the Manual Billable Rebate Program for the month of March 2026. 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 waive the maximum combined Submitting Broker credits paid for QCC trades and Floor Broker rebates paid through the Manual Billable Rebate Program for the month of March 2026.

The Exchange imposes a limit on the maximum combined Submitting Broker credits paid for QCC trades and Floor Broker rebates paid through the Manual Billable Rebate Program per month per firm (the ''Cap'').[4] Because of elevated volumes on the Exchange, the Exchange proposes to waive the Cap for the month of March 2026 and to use the period during which the Cap is waived to evaluate an adjustment to the amount of the Cap. The proposed waiver is being adopted in anticipation of firms reaching the Cap before month's end and potentially redirecting their order flow away from the Exchange. In the absence of the proposed waiver, firms may choose to redirect such order flow to a competing market. Accordingly, the purpose of the proposal is to encourage Submitting Brokers and Floor Brokers to continue to direct order flow to the Exchange, despite increasing industry volumes making it less difficult to reach the Cap.

Although the Exchange cannot predict with certainty how many firms would be impacted by this change, the Exchange believes that the proposed change would incent firms to continue to direct their order flow to the Exchange, thus increasing liquidity to the benefit of all market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[6] 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 change is reasonable, equitable, and not unfairly discriminatory. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that 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.'' [7]

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.[8] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 10.39% market share of executed volume of multiply-listed equity and ETF options trades.[9] 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 proposed waiver of the Cap is reasonable because it is designed to encourage the role performed by Submitting Brokers in facilitating QCC transactions and Floor Brokers in facilitating the execution of orders via open outcry, functions that the Exchange wishes to support for the benefit of all market participants, and would allow the Exchange time to evaluate changes to the amount of the Cap. Absent the proposed waiver, the Exchange believes that, as soon as firms reach the Cap, they are likely to redirect order flow away from the Exchange, which may adversely impact other market participants trading on the Exchange. To the extent that the proposed waiver encourages Submitting Brokers and Floor Brokers to facilitate transactions on the Exchange instead of on a competing market, all market participants at the Exchange would benefit from the increased liquidity. The Exchange believes the proposed waiver should continue to incent Submitting Brokers and Floor Brokers to encourage market participants to aggregate their executions at the Exchange as a primary execution venue. To the extent that the proposed change achieves its purpose in attracting more volume to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution, thus improving market quality for all market participants.

The Exchange believes the proposed waiver of the Cap is an equitable allocation of its fees and credits and is not unfairly discriminatory because the proposal is based on the amount and type of business transacted on the Exchange. Submitting Brokers and Floor Brokers are not obligated to execute QCC transactions or manual transactions to earn credits and rebates

[4] *See* Fee Schedule, Endnote 17 (providing that Submitting Broker credits paid for QCC trades and Floor Broker rebates paid through the Manual Billable Rebate Program shall not combine to exceed $3,000,000 per month per firm).

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

[6] 15 U.S.C. 78f(b)(4) and (5).

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

[8] 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.*

[9] 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 13.08% in January 2025 to 10.39% for the month of January 2026.

applied toward the Cap. However, the proposed waiver is designed to continue to encourage the roles performed by Submitting Brokers and Floor Brokers in facilitating the execution of QCC transactions and orders via open outcry, functions that the Exchange wishes to support for the benefit of all market participants.

To the extent that the proposed waiver of the Cap continues to attract manual transactions and QCCs to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed waiver would improve market quality for all market participants on the Exchange and attract more order flow to the Exchange, thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest.

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.'' [10]

Intramarket Competition. The proposed waiver of the Cap would apply equally to all similarly situated Submitting Brokers and Floor Brokers. To the extent that there is an additional competitive burden on non-Submitting Brokers or non-Floor Brokers, the Exchange believes that any such burden would be appropriate because Submitting Brokers and Floor Brokers serve an important function in facilitating the execution of QCC transactions and orders in open outcry, to the benefit of all market participants.

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.[11] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 10.39% market share of executed volume of multiply-listed equity and ETF options trades.[12]

The Exchange believes that the proposed waiver of the Cap reflects this competitive environment because it is designed to continue to incent Submitting Brokers and Floor Brokers to direct manual and QCC transactions to the Exchange, to provide liquidity and to attract order flow. To the extent that Submitting Brokers and 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) of the Act [13] and subparagraph (f)(2) of Rule 19b–4 [14] 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) [15] 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–2026–32 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–2026–32. This file number should be included on the subject line if email is used. To help the

[10] *See* Reg NMS Adopting Release, *supra* note 7, at 37499.

[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 ETF-based options, *see id.,* the Exchange's market share in multiply-listed equity and ETF options decreased from 13.08% in January 2025 to 10.39% for the month of January 2026.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

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

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–2026–32 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06158 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105087; File No. SR–NYSEAMER–2026–23]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE American Options Fee Schedule To Adopt Fees for Trading in Options Overlying the MSCI EAFE Index and the MSCI Emerging Markets Index

March 26, 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 March 16, 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 amend the NYSE American Options Fee Schedule (''Fee Schedule'') to adopt fees applicable to trading in options that overlie each of the MSCI EAFE Index and the MSCI Emerging Markets Index. 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 establish fees in connection with the launch of trading in options that overlie the MSCI EAFE Index (''EAFE options'' or ''MXEA'') and the MSCI Emerging Markets Index (''EM options'' or ''MXEF''). The Exchange recently filed a proposed rule change to adopt rules to facilitate the transfer and trading of EAFE options and EM options, which currently trade on Cboe Exchange, Inc. (''Cboe Options'').[4] The Exchange proposes that the fees set forth in this filing will take effect on March 16, 2026, the day that trading in EAFE options and EM options begins on the Exchange.[5]

The MSCI EAFE Index (''EAFE Index'') and MSCI Emerging Markets Index (''EM Index'') are both free float-adjusted market capitalization indexes calculated by MSCI Inc. (''MSCI''). The EAFE Index is designed to measure the equity market performance of developed markets, excluding the United States and Canada,[6] and the EM Index is designed to measure equity market performance of emerging markets.[7] Both indexes consist of large and midcap components, and each covers approximately 85% of the free float-adjusted market capitalization in each country included in the respective index.

The Exchange proposes to adopt the following per contract transaction fees for manual executions in MXEA and MXEF, which are largely based on the fees currently assessed by Cboe Options:[8]

Participant	Penny/Non-Penny	Rate per contract MXEA, MXEF manual transactions
Broker-Dealer	Penny	$0.25
	Non-Penny	0.25

[16] 17 CFR 200.30–3(a)(12).

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

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

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 104957 (March 10, 2026) 91 FR 12473 (March 13, 2026) (SR–NYSEAMER–2026–15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Facilitate the Transfer and Trading of Options that Overlie the MSCI EAFE Index and the MSCI Emerging Markets Index); *see also* Securities Exchange Act Release No. 74681 (April 8, 2015), 80 FR 20032 (April 14, 2015) (SR–CBOE–2015–023) (Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Options on the MSCI EAFE Index and on the MSCI Emerging Markets Index).

[5] *See https://www.nyse.com/trader-update/history#110000955053.*

[6] The MSCI EAFE Index consists currently of the following 21 developed market country indexes: Australia, Austria, Belgium, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

[7] The MSCI EM Index consists currently of the following 24 emerging market country indexes: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Greece, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Pakistan, Peru, Philippines, Poland, Qatar, Russia, South Africa, Taiwan, Thailand, Turkey and United Arab Emirates.

[8] *See* Cboe Options Fee Schedule, available at [sic] (providing for $0.45 per contract rate for Cboe Options Market-Maker/DPM/LMM manual transactions in index products; $0.25 per contract rate for Broker-Dealer manual transaction in index products; $0.25 per contract rate for Customer manual transactions in MXEA and MXEF). As further discussed below, the Exchange's proposed fee structure for transactions in MXEA and MXEF is consistent with Cboe Options' fee structure except for differences in the pricing programs from which transactions in MXEA and MXEF are excluded (based on differences between the programs offered by the Exchange and those offered by Cboe Options) and the amount of the proposed Index License Surcharge.

Participant	Penny/Non-Penny	Rate per contract MXEA, MXEF manual transactions
Customer	Penny	0.25
	Non-Penny	0.25
DOMM	Penny	N/A
	Non-Penny	N/A
e-Specialist	Penny	0.45
	Non-Penny	0.45
Firm	Penny	0.25
	Non-Penny	0.25
Firm Facilitation	Penny	N/A
	Non-Penny	N/A
NYSE American Options Market Maker	Penny	0.45
	Non-Penny	0.45
Non-NYSE American Options Market Maker	Penny	0.25
	Non-Penny	0.25
Professional Customer	Penny	0.25
	Non-Penny	0.25
Specialist	Penny	0.45
	Non-Penny	0.45

The Exchange also proposes to amend Footnotes 3 and 5 of Fee Schedule Section I.A. ''Rates for Options transactions'' to exclude MXEA and MXEF: (i) from Marketing Charges applicable to Market Makers who are counterparties to an electronic trade with a customer; and (ii) from the per contract surcharge applied to any Non-Customer order that is not a Simple Order that executes against a Customer order that is not a Simple Order. The Exchange further proposes to amend Fee Schedule Sections I and J to exclude transactions in MXEA and MXEF from the Firm Monthly Fee Cap and Strategy Execution Fee Cap, respectively.

Finally, the Exchange proposes to adopt an Index License Surcharge of $0.20 per contract for all Non-Customer transactions in MXEA and MXEF. The proposed Index License Surcharge is likewise based on the index license surcharge fee assessed by Cboe Options for transactions in MXEA and MXEF [9] and reflects costs incurred by the Exchange related to licensing for purposes of listing and trading EAFE options and EM options.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[11] 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 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.'' [12]

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.[13] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 9.03% market share of executed volume of multiply-listed equity and ETF options trades.[14] 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 the proposed fees for trading in MXEA and MXEF are reasonable, equitable, and not unfairly discriminatory. As noted above, the proposed fees are generally based on fees currently assessed by Cboe Options for trading in EAFE options and EM options.[15] The Exchange believes that it is reasonable for the Exchange to adopt fees largely based on the existing pricing structure for EAFE options and EM options, which would provide continuity to market participants trading in these options. The Exchange also believes that the proposed fees are reasonable because the proposed fees for manual transactions in MXEA and MXEF are within the range of fees currently applicable to manual transactions on the Exchange in other products. Similarly, the proposed

[9] *See* Cboe Options Fee Schedule, Surcharge Fee Index License (applying $0.15 surcharge on transactions in MXEA and MXEF).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

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

[13] 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.*

[14] 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 was 6.09% for the month of November 2024 and 9.03% for the month of January 2026.

[15] *See* notes 8 & 9 *supra.*

exclusion of transactions in MXEA and MXEF from certain pricing programs is consistent with the exclusion of fees related to other index products traded on the Exchange.[16] The Exchange also believes that the proposed Index License Surcharge is reasonable because it is intended to help recoup some of the costs associated with the license required to make MXEA and MXEF options available for trading on the Exchange. The Exchange further believes that the proposed change is reasonably designed to encourage market participants to continue trading in MXEA and MXEF once trading in these options begins on the Exchange and believes that maintaining consistency with the current Cboe Options pricing structure would facilitate the transition for all market participants to trading these options on the Exchange. To the extent the proposed change is effective in encouraging market participants to maintain or increase their trading activity in MXEA and MXEF, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants.

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits and is not unfairly discriminatory because the proposed fees are based on the amount and type of business transacted on the Exchange. Trading in EAFE options and EM options is voluntary, and all similarly situated market participants would be subject to the same fee structure, on an equal and non-discriminatory basis, as proposed. To the extent that the proposed change attracts increased order flow to the Exchange, it would continue to make the Exchange a more competitive venue for, among other things, order execution, thereby improving market quality 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.'' [17]

Intramarket Competition. The proposed change is designed to facilitate trading in EAFE options and EM options on the Exchange and to promote continuity for market participants by maintaining general consistency with the existing fee structure on Cboe Options for trading in MXEA and MXEF. The proposed fees would apply to all similarly situated market participants that trade EAFE options and EM options, 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.[18] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 9.03% market share of executed volume of multiply-listed equity and ETF options trades.[19]

The Exchange believes that the proposed rule change reflects this competitive environment because it adopts fees for trading in EAFE options and EM options generally based on Cboe Options' fees, thereby modifying the Exchange's fees in a manner designed to encourage market participants to maintain or increase trading activity in such options once they transition to list and trade on the Exchange. To the extent that market participants continue to trade in MXEA and MXEF on the Exchange, all Exchange market participants stand to benefit from increased order flow and additional trading opportunities on the Exchange. 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) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] 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) [22] of the Act to determine whether the proposed rule

[16] *See* Fee Schedule, FIRM MONTHLY FEE CAP (excluding Royalty Fees for KBW Bank Index options from fees that count towards the Firm and Broker Dealer Monthly Fee Cap); STRATEGY EXECUTION FEE CAP (excluding Royalty Fees for KBW Bank Index options from calculation of cap on transaction fees for strategy executions).

[17] *See* Reg NMS Adopting Release, *supra* note 12, at 37499.

[18] 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.*

[19] 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 was 6.09% for the month of November 2024 and 9.03% for the month of January 2026.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

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–2026–23 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–2026–23. 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–2026–23 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06157 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Small Business Capital Formation Advisory Committee will hold a public meeting on Tuesday, April 28, 2026. The meeting will begin at 10:00 a.m. (ET) and will be open to the public.

PLACE: The meeting will be conducted at the Commission's headquarters, 100 F Street NE, Washington, DC 20549, and by remote means (videoconference). Members of the public may attend in-person or watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

STATUS: This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

MATTERS TO BE CONSIDERED: The agenda for the meeting includes matters relating to rules and regulations affecting small and emerging businesses and their investors under the federal securities laws.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: March 26, 2026.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–06147 Filed 3–27–26; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105089; File No. SR–CboeEDGX–2026–015]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce an Exchange Clock Service

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2026, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to amend Rule 21.15 to provide for the new service called the Clock Service. 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/* [sic]), and at the principal office of the Exchange.

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

In its filing with the Commission, the 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 21.15 to provide for the new service called the Clock Service.[3] The Clock Service is an optional product[4] available to Members and non-Members alike. In sum, a subscriber would be able to utilize the proposed Clock Service to synchronize their time recording systems to those of the Exchange for highly correlated latency measurements between the Exchange's and the subscriber's systems time measurements related to the same message or order. Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The proposed Clock Service is not novel to the securities markets and it is similar to the network time synchronization service currently offered by MIAX

[3] The Exchange also proposes to amend the title of Rule 21.15 from ''Exchange Data Products'' to ''Exchange Data Products and Services.''

[4] A firm that chooses to subscribe to the proposed Clock Service may discontinue the Clock Service at any time if that firm determines that it is no longer useful or that alternatives better meet their business or system needs. The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

Emerald, LLC (''MIAX Emerald'').[5] The Exchange proposes to provide the Clock Service in response to participant demand for more precise and more accurate clock synchronization options with the Exchange's network.

The U.S. Government's Global Positioning System(''GPS'') clock[6] time signal is the benchmark by which the Exchange and most, if not all, Members and non-Members use to synchronize their internal primary clock devices.[7] Using the U.S. Government provided GPS time signals publicly available through the GPS network is a de facto standard for high precision time synchronization across geographically diverse locations. Typically, a GPS receiver connected to an antenna serves as a time signal source which feeds the Coordinated Universal Time (referred to as ''UTC'') to synchronize other clocks using Precision Time Protocol (''PTP'').[8]

The Exchange's primary clock[9] is the time source used to synchronize the Exchange's System,[10] as well as its affiliated options and equities exchanges trading systems (collectively, the ''Cboe Trading System'') and feeds a time signal to the Exchange's timestamping devices and servers within the Exchange's own network using White Rabbit[11] and PTP. These capture devices are used to timestamp orders and messages as they travel through the Exchange's System.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. Today, the Exchange understands many participants attempt to sync their primary clock devices to the U.S. Government provided GPS network. By getting the GPS signal through a GPS capable antenna, participants can synchronize their primary clock device to the GPS network time to within an accuracy of approximately 30 nanoseconds. From there, by using a PTP time synchronization protocol, participants can synchronize their internal devices to their primary clock devices.

Because the Exchange and participants independently access time signals from the U.S. government provided GPS network to synchronize their own primary clock devices, measurement times of market events by the Exchange and a participant may vary. This may, in turn, lead to incorrect latency measurements that may cause a participant's time calculations of how long it took for their order or message to leave their systems and reach the trading center to which it was sent to. This may impair the participant's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.

Under the proposed Clock Service, participants would be able to synchronize their own primary clock devices to the Exchange's primary clock device, by receiving White Rabbit time signals from the Exchange via a 1 gigabit per second (''Gbps'') Physical Port. The proposed Clock Service simply provides participants with the Exchange's time signal at a more granular level, and, as part of the Clock Service, participants will receive a 1 Gbps Physical Port offered by the Exchange in order to connect.[12] The improved time signal would tell the participant the Exchange's time at a more granular level at a particular point in time. The subscribing participant may then use that time signal to synchronize their own primary clock to the Exchange's primary clock.

Some participants may currently have a White Rabbit clock synchronization[13] device within their own network. This device is not provided by the Exchange. Other participants that do not currently utilize White Rabbit clock synchronization device and optics would need to acquire one from a third-party vendor, of which there are several providers.[14]

Participants may use the proposed Clock Service for numerous purposes. For one, the proposed Clock Service would allow participants to more precisely measure latency between their network and that of the Exchange. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange.

Participants may use the proposed Clock Service to analyze the efficiency of their network and connections when not only routing orders to the Exchange, but also when receiving messages back from the Exchange. These messages include communications regarding whether their order was accepted, rejected, or executed. Participants may measure message traversal times by comparing their message's (*e.g.,* order, quote, cancellation, etc.) timestamp to the Exchange's matching engine timestamp from the Exchange-generated acknowledgement messages (*e.g.,* order acknowledgment, quote acknowledgment, cancellation acknowledgment, etc.).[15] Participants may then enhance their own systems to ensure that they are receiving such communications in a timelier manner and to verify that their systems are working as intended. Participants may then utilize these enhanced latency measurements to better analyze latencies within their own systems and

[5] *See* Securities Exchange Act Release No. 94915 (May16, 2022), 87 FR 31022 (May 20, 2022) (SR–EMERALD–2022–16).

[6] For a description of the GPS clock, see Official U.S. Government Information About the Global Positioning System (GPS) and Related Topic, available at *https://www.gps.gov/applications/timing/* (providing that ''[i]n addition to longitude, latitude, and altitude, the Global Positioning System (GPS) provides a critical fourth dimension—time. Each GPS satellite contains multiple atomic clocks that contribute very precise time data to the GPS signals. GPS receivers decode these signals, effectively synchronizing each receiver to the atomic clocks. This enables users to determine the time to within 100 billionths of a second, without the cost of owning and operating atomic clocks.'')

[7] *See* An Evaluation of Dependencies of Critical Infrastructure Timing Systems on the Global Positioning System (GPS), noting that ''the primary time synchronization sources for these systems are signals broadcast by Global Positioning System (GPS) satellites . . .''

[8] A primary clock device is a precision parent clock that provides timing signals to synchronized secondary child clocks as part of a standalone clock network. The term ''Coordinated Universal Time'' is defined as the ''international standard of time that is kept by atomic clocks around the world.'' See Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/Coordinated%20Universal%20Time* (last visited November 10, 2021). Coordinated Universal Time is the primary time standard by which the world regulates clocks and time. See *https://www.timeanddate.com/time/aboututc.html.* ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. See also ''IEEE–1588 Standard for a Precision Clock Synchronization Protocol for Networked Measurement and Control Systems'' available at *https://www.nist.gov/system/files/documents/el/isd/ieee/tutorial-basic.pdf.*

[9] The Exchange's primary clock ordinarily derives its time from the primary Exchange-managed GPS receiver; however, in certain failover or impairment scenarios, the system may temporarily synchronize to an external time service to maintain continuity.

[10] The term ''System'' shall mean the automated system for order execution and trade reporting owned and operated by the Exchange. *See* Rule 21.1(a).

[11] White Rabbit is a high-precision time synchronization technology that combines PTP with synchronous ethernet to achieve up to sub-nanosecond accuracy.

[12] The Exchange notes that MIAX Emerald, LLC similarly requires a 1 Gbps connection in order to utilize its respective clock service.

[13] A White Rabbit clock synchronization device has the technological ability to capture time and coordinate time synchronization within a network up to a sub-nanosecond level.

[14] The Exchange notes that participants are responsible for procuring the applicable license(s) as needed.

[15] The Exchange sends Members an acknowledgement message that their order or message was received by the Exchange. This acknowledgement includes the time of receipt at a microsecond level; however, the Exchange intends to update the time of receipt to be at a nanosecond by the end of March. The Exchange further notes that participants who subscribe to any one of the optional reports offered by Cboe Timestamping Services (see Rule 21.15(b)(7)) will have additional timestamps to analyze.

use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. In particular, participants may use these metrics to better assess the health of their network and that their systems are working as intended. For example, a participant may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A subscriber may then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. Subscribers may also use the proposed Clock Service for other purposes, such as trade surveillance. Subscribers may also utilize time synchronization to assist them in evaluating compliance with certain clock synchronization requirements.

The proposed Clock Service would be described under proposed Rule 21.15(b)(9), which would provide that:

> Clock Service utilizes White Rabbit and Precision Time Protocol (''PTP'') for synchronizing device clocks by leveraging technology designed to maintain tightly aligned timing across systems. Clock Service enables subscribers to synchronize their internal devices to the same time as the Exchange devices with high precision.

The Exchange does not propose to provide a new connectivity option to receive time signals via the proposed Clock Service; rather, dedicated 1 Gbps Physical Ports available will be included as part of this Clock Service.[16] The proposed Clock Service provides enhanced time synchronization that may be utilized by subscribing participants to adjust their own systems. The Exchange does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal. Participants may continue to use their existing methods to connect to and send orders to the Exchange. The proposed Clock Service will not include any trading data regarding the subscriber's activity on the Exchange or include any data from other trading activity on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] 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)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Trading technology in the U.S. market is constantly evolving and providing market participants with tools to increase speed and reduced latency opportunities. Today, the Exchange provides participants timestamp information in microseconds.[20] The Exchange and its participants independently access time signals from GPS and use those time signals to synchronize their own primary clock devices. Even though both the Exchange and participants synchronize to GPS, differences among GPS receivers may vary by about 30 nanoseconds, with the potential for further deviation based on a participant's infrastructure. In today's market, such a potential inaccuracy in a subscriber's latency measurements is meaningful and potentially impactful to the performance of their trading strategies.

The proposed Clock Service addresses this issue by enabling subscribers to synchronize their primary clock device with the Exchange's by utilizing technology that allows up to a sub-nanosecond level. For example, the proposed Clock Service would allow subscribers to timestamp a quote sent from their system to the very same quote timestamped by the Exchange and have confidence that the time delta between timestamps is attributable to latency and not due to a potential offset in their primary clocks as discussed above. The Exchange, therefore, believes the proposed Clock Service promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market because it would allow latency sensitive subscribers to measure latency in a manner consistent with their trading behavior and the evolving pace of trading and technology in today's markets. Time synchronization removes impediments to and perfects the mechanism of a free and open market because it would provide Members with a tool to assess and re-calibrate their systems at a more acute level that is in line with the increasing speeds at which today's markets operate.

The proposed Clock Service provides participants with the Exchange's time signal. The time signal provided by the proposed Service could be beneficial in multiple areas, one of which is enabling subscribers to more precisely measure latency between their network and that of the Exchange by utilizing technology that allows up to a sub-nanosecond level. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange through more granular latency measurements. The proposed Clock Service is, therefore, consistent with Section 6(b)(5) of the Act because a more granular latency measurement would enable latency sensitive subscribers to more precisely calculate and thus better understand and manage their own latency.

Subscribers may utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. The ability to more precisely measure network efficiency could provide subscribers with a set of metrics that allow them to better assess the health of their network and that their systems are working as intended. The Exchange anticipates that most, if not all, subscribers to the proposed Clock Service would be those whose trading models are latency sensitive; however, managed service providers may also subscribe in order to redistribute the Cboe Clock to their downstream clients.

The Exchange believes providing this optional clock synchronization service to interested subscribers is, therefore, consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

As noted above, MIAX Emerald currently offers a clock service that has

[16] The Exchange notes that the 1 Gbps Physical Port that a participant shall receive as part of this Service shall be used solely for the purposes of the Clock Service and will not be able to be used for any other purpose (*e.g.,* order routing).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] The Exchange intends to provide this information in nanoseconds by the end of March.

been reviewed and approved by the Commission.[21] MIAX Emerald's clock service is substantially similar to the proposed Clock Service as both offerings synchronize a subscriber's time recording systems to those of the exchange at a more granular level for highly correlated latency measurements between the exchange's and the subscriber system's time measurements related to the same message or order. Both offerings allow subscribers to synchronize their own primary clock devices to the exchange's primary clock device, by receiving time signals from the 1 Gbps connection.

One key distinction between the Exchange's proposed Clock Service and MIAX Emerald's similar offering is that the Exchange includes a 1 Gbps Physical Port as part of its offering for this Clock Service.[22] Similar to MIAX Emerald, this 1 Gbps Physical Port will be used solely for the Clock Service offering.[23] However, a participant that purchases the Exchange's Clock Service will only need one 1 Gbps Physical Port to receive this service for the Exchange and its affiliated equities and options exchanges.[24]

Additionally, MIAX Emerald's offering also utilizes White Rabbit technology.[25] with both services synchronizing a subscriber's time recording systems to those of the respective exchange at a more granular level for highly correlated latency measurements between the respective exchange's and the subscriber system's time measurements related to the same message or order.

The proposed Clock Service also protects investors and the public interest because subscribers may use the Clock Service for determining compliance with trade surveillance and to assist them in evaluating compliance with certain clock synchronization requirements.[26]

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as it will be available to all Members and non-Members who choose to subscribe. Use of the proposed Clock Service would be voluntary and no Member or non-Member would be required to subscribe to the proposed Clock Service.[28] The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. Participants that choose not to subscribe to the proposed Clock Service are free to utilize other time synchronization methods or services that may assist them in time synchronization of their systems at a more granular level. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. For example, certain participants employ business models that are not latency sensitive, such as those that only enter resting liquidity.

Lastly, the Exchange believes the proposed changes to the title of Rule 21.15 promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes will provide greater clarity to participants and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

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. In this instance, the proposed rule change to offer the optional Clock Service is in response to participant interest and requests for tools that would enable them to better measure traversal times between their network and that of the Exchange at a more granular level.

Intra-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on intra-market competition between participants that choose to subscribe to the Clock Service and those participants that do not. The proposed Clock Service would provide participants with the ability to synchronize their primary clock devices with the Exchange's primary clock device by utilizing technology that allows up to a sub-nanosecond level, which they may then use to measure their network's efficiency to determine whether their systems are performing as expected.

The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended.

Additionally, some participants may be able to enhance their own traversal time calculations without subscribing to the proposed Clock Service by using other time synchronization methods or utilize some other services that may assist them in time synchronization of their systems. Participants may also prefer to utilize or develop other methods that would enable them to determine whether their own primary clock device is recording time in close proximity to the primary clock devices of other market participants. Participants may view these alternatives as more in line with their business needs or choose an alternative that is more compatible with their existing technology.

Inter-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on inter-market competition. The proposed Clock Service will further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. As previously noted, MIAX Emerald provides a clock service to its Members.[29] The proposed Clock Service would provide subscribers with a tool to assist them in recalibrating

[21] *See* Securities Exchange Act Release No. 94335 (March 1, 2022), 87 FR 12756 (March 7, 2022) (SR–EMERALD–2021–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service) (''Approval Order'').

[22] As noted above, MIAX also requires a 1 Gbps connection.

[23] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31002 (May 20, 2022) (SR–EMERALD–2022–16).

[24] MIAX Emerald's affiliates do not offer this service, thus the 1 Gbps connection is only used for the MIAX Emerald clock service while the Exchange's proposed offering allows for the Clock Service to be used for the Exchange and its affiliated options and equities exchanges.

[25] *See* MIAX_Emerald_Options_EnhancedPTP_WhiteRabbit_08302021.pdf, noting the White Rabbit technology that is used for this service offering.

[26] *See* Rule 4.6.

[27] 15 U.S.C. 78f(b)(5).

[28] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[29] *See* MIAX Emerald Fee Schedule, Section 8, Services.

their own models and trading strategies to improve their overall experience on the Exchange, thereby potentially improving execution and order fill rates. This may improve the Exchange's overall market quality through increased liquidity and improved execution opportunities for resting orders, enhancing the Exchange's overall competitive position. The proposed rule change should enhance competition by promoting further initiatives and innovation among market centers and market participants as it concerns time measurements and synchronization among trading platforms.

Lastly, if the proposed Clock Service is unattractive to participants, participants will opt not to subscribe to it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of participants or competing order execution venues to maintain their competitive standing in the financial market.

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) [30] of the Act and Rule 19b–4(f)(6) [31] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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 [32] and Rule 19b–4(f)(6) thereunder.[33]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [34] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and 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–2026–015 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–2026–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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–2026–015 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

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[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6).

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105093; File No. SR–CboeEDGA–2026–007]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce an Exchange Clock Service

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2026, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 13.8 to provide for the new service called the Clock Service. 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/* [sic]), and at the principal office of the Exchange.

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

In its filing with the Commission, the 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 13.8 to provide for the new service

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

[2] 17 CFR 240.19b–4.

called the Clock Service.[3] The Clock Service is an optional product [4] available to Members and non-Members alike. In sum, a subscriber would be able to utilize the proposed Clock Service to synchronize their time recording systems to those of the Exchange for highly correlated latency measurements between the Exchange's and the subscriber's systems time measurements related to the same message or order. Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. The proposed Clock Service is not novel to the securities markets and it is similar to the network time synchronization service currently offered by MIAX Emerald, LLC (''MIAX Emerald'').[5] The Exchange proposes to provide the Clock Service in response to participant demand for more precise and more accurate clock synchronization options with the Exchange's network.

The U.S. Government's Global Positioning System (''GPS'') clock [6] time signal is the benchmark by which the Exchange and most, if not all, Members and non-Members use to synchronize their internal primary clock devices.[7] Using the U.S. Government provided GPS time signals publicly available through the GPS network is a de facto standard for high precision time synchronization across geographically diverse locations. Typically, a GPS receiver connected to an antenna serves as a time signal source which feeds the Coordinated Universal Time (referred to as ''UTC'') to synchronize other clocks using Precision Time Protocol (''PTP'').[8]

The Exchange's primary clock [9] is the time source used to synchronize the Exchange's System,[10] as well as its affiliated options and equities exchanges trading systems (collectively, the ''Cboe Trading System'') and feeds a time signal to the Exchange's timestamping devices and servers within the Exchange's own network using White Rabbit [11] and PTP. These capture devices are used to timestamp orders and messages as they travel through the Exchange's System.

Time synchronization services are well established in the U.S. and utilized in many areas of the U.S. economy and infrastructure. Today, the Exchange understands many participants attempt to sync their primary clock devices to the U.S. Government provided GPS network. By getting the GPS signal through a GPS capable antenna, participants can synchronize their primary clock device to the GPS network time to within an accuracy of approximately 30 nanoseconds. From there, by using a PTP time synchronization protocol, participants can synchronize their internal devices to their primary clock devices.

Because the Exchange and participants independently access time signals from the U.S. government provided GPS network to synchronize their own primary clock devices, measurement times of market events by the Exchange and a participant may vary. This may, in turn, lead to incorrect latency measurements that may cause a participant's time calculations of how long it took for their order or message to leave their systems and reach the trading center to which it was sent to. This may impair the participant's ability to fully understand latencies within their own systems and whether they need to adjust their systems or trading models.

Under the proposed Clock Service, participants would be able to synchronize their own primary clock devices to the Exchange's primary clock device, by receiving White Rabbit time signals from the Exchange via a 1 gigabit per second (''Gbps'') Physical Port. The proposed Clock Service simply provides participants with the Exchange's time signal at a more granular level, and, as part of the Clock Service, participants will receive a 1 Gbps Physical Port offered by the Exchange in order to connect.[12] The improved time signal would tell the participant the Exchange's time at a more granular level at a particular point in time. The subscribing participant may then use that time signal to synchronize their own primary clock to the Exchange's primary clock.

Some participants may currently have a White Rabbit clock synchronization [13] device within their own network. This device is not provided by the Exchange. Other participants that do not currently utilize White Rabbit clock synchronization device and optics would need to acquire one from a third-party vendor, of which there are several providers.[14]

Participants may use the proposed Clock Service for numerous purposes. For one, the proposed Clock Service would allow participants to more precisely measure latency between their network and that of the Exchange. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange.

Participants may use the proposed Clock Service to analyze the efficiency of their network and connections when not only routing orders to the Exchange, but also when receiving messages back from the Exchange. These messages

[3] The Exchange also proposes to amend the title of Rule 13.8 from ''Exchange Data Products'' to ''Exchange Data Products and Services.''

[4] A firm that chooses to subscribe to the proposed Clock Service may discontinue the Clock Service at any time if that firm determines that it is no longer useful or that alternatives better meet their business or system needs. The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

[5] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31022 (May 20, 2022) (SR–EMERALD–2022–16).

[6] For a description of the GPS clock, see Official U.S. Government Information About the Global Positioning System (GPS) and Related Topic, available at *https://www.gps.gov/applications/timing/* (providing that ''[i]n addition to longitude, latitude, and altitude, the Global Positioning System (GPS) provides a critical fourth dimension—time. Each GPS satellite contains multiple atomic clocks that contribute very precise time data to the GPS signals. GPS receivers decode these signals, effectively synchronizing each receiver to the atomic clocks. This enables users to determine the time to within 100 billionths of a second, without the cost of owning and operating atomic clocks.'')

[7] *See* An Evaluation of Dependencies of Critical Infrastructure Timing Systems on the Global Positioning System (GPS), noting that ''the primary time synchronization sources for these systems are signals broadcast by Global Positioning System (GPS) satellites . . .''

[8] A primary clock device is a precision parent clock that provides timing signals to synchronized secondary child clocks as part of a standalone clock network. The term ''Coordinated Universal Time'' is defined as the ''international standard of time that is kept by atomic clocks around the world.'' See Merriam-Webster Dictionary, available at *https://www.merriam-webster.com/dictionary/Coordinated%20Universal%20Time* (last visited November 10, 2021). Coordinated Universal Time is the primary time standard by which the world regulates clocks and time. See *https://www.timeanddate.com/time/aboututc.html*. ''Precision Time Protocol'' is a method used to synchronize clocks through a computer network. See also ''IEEE–1588 Standard for a Precision Clock Synchronization Protocol for Networked Measurement and Control Systems'' available at *https://www.nist.gov/system/files/documents/el/isd/ieee/tutorial-basic.pdf*.

[9] The Exchange's primary clock ordinarily derives its time from the primary Exchange-managed GPS receiver; however, in certain failover or impairment scenarios, the system may temporarily synchronize to an external time service to maintain continuity.

[10] The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Rule 1.5(cc).

[11] White Rabbit is a high-precision time synchronization technology that combines PTP with synchronous ethernet to achieve up to sub-nanosecond accuracy.

[12] The Exchange notes that MIAX Emerald, LLC similarly requires a 1 Gbps connection in order to utilize its respective clock service.

[13] A White Rabbit clock synchronization device has the technological ability to capture time and coordinate time synchronization within a network up to a sub-nanosecond level.

[14] The Exchange notes that participants are responsible for procuring the applicable license(s) as needed.

include communications regarding whether their order was accepted, rejected, or executed. Participants may measure message traversal times by comparing their message's (*e.g.,* order, quote, cancellation, etc.) timestamp to the Exchange's matching engine timestamp from the Exchange-generated acknowledgement messages (*e.g.,* order acknowledgment, quote acknowledgment, cancellation acknowledgment, etc.).[15] Participants may then enhance their own systems to ensure that they are receiving such communications in a timelier manner and to verify that their systems are working as intended. Participants may then utilize these enhanced latency measurements to better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. In particular, participants may use these metrics to better assess the health of their network and that their systems are working as intended. For example, a participant may use this information when analyzing the efficacy of their various connections and whether a connection is performing as expected or experiencing a delay. A subscriber may then decide to rebalance the amount of orders and/or messages over its various connections to ensure each connection is operating with maximum efficiency. Subscribers may also use the proposed Clock Service for other purposes, such as trade surveillance. Subscribers may also utilize time synchronization to assist them in evaluating compliance with certain clock synchronization requirements.

The proposed Clock Service would be described under proposed Rule 13.8(j), which would provide that:

> Clock Service utilizes White Rabbit and Precision Time Protocol (''PTP'') for synchronizing device clocks by leveraging technology designed to maintain tightly aligned timing across systems. Clock Service enables subscribers to synchronize their internal devices to the same time as the Exchange devices with high precision.

The Exchange does not propose to provide a new connectivity option to receive time signals via the proposed Clock Service; rather, dedicated 1 Gbps Physical Ports available will be included as part of this Clock Service.[16] The proposed Clock Service provides enhanced time synchronization that may be utilized by subscribing participants to adjust their own systems. The Exchange does not propose to include additional connectivity options or modify existing connectivity options as part of this proposal. Participants may continue to use their existing methods to connect to and send orders to the Exchange. The proposed Clock Service will not include any trading data regarding the subscriber's activity on the Exchange or include any data from other trading activity on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] 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) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Trading technology in the U.S. market is constantly evolving and providing market participants with tools to increase speed and reduced latency opportunities. Today, the Exchange provides participants timestamp information in microseconds.[20] The Exchange and its participants independently access time signals from GPS and use those time signals to synchronize their own primary clock devices. Even though both the Exchange and participants synchronize to GPS, differences among GPS receivers may vary by about 30 nanoseconds, with the potential for further deviation based on a participant's infrastructure. In today's market, such a potential inaccuracy in a subscriber's latency measurements is meaningful and potentially impactful to the performance of their trading strategies.

The proposed Clock Service addresses this issue by enabling subscribers to synchronize their primary clock device with the Exchange's by utilizing technology that allows up to a sub-nanosecond level. For example, the proposed Clock Service would allow subscribers to timestamp a quote sent from their system to the very same quote timestamped by the Exchange and have confidence that the time delta between timestamps is attributable to latency and not due to a potential offset in their primary clocks as discussed above. The Exchange, therefore, believes the proposed Clock Service promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market because it would allow latency sensitive subscribers to measure latency in a manner consistent with their trading behavior and the evolving pace of trading and technology in today's markets. Time synchronization removes impediments to and perfects the mechanism of a free and open market because it would provide Members with a tool to assess and re-calibrate their systems at a more acute level that is in line with the increasing speeds at which today's markets operate.

The proposed Clock Service provides participants with the Exchange's time signal. The time signal provided by the proposed Service could be beneficial in multiple areas, one of which is enabling subscribers to more precisely measure latency between their network and that of the Exchange by utilizing technology that allows up to a sub-nanosecond level. The proposed Clock Service would allow them to better understand the times at which their order or message reached certain points when traveling from their network to the Exchange through more granular latency measurements. The proposed Clock Service is, therefore, consistent with Section 6(b)(5) of the Act because a more granular latency measurement would enable latency sensitive subscribers to more precisely calculate and thus better understand and manage their own latency.

Subscribers may utilize these enhanced latency measurements to

[15] The Exchange sends Members an acknowledgement message that their order or message was received by the Exchange. This acknowledgement includes the time of receipt at a microsecond level; however, the Exchange intends to update the time of receipt to be at a nanosecond by the end of March. The Exchange further notes that participants who subscribe to any one of the optional reports offered by Cboe Timestamping Services (*see* Rule 13.8(i)) will have additional timestamps to analyze.

[16] The Exchange notes that the 1 Gbps Physical Port that a participant shall receive as part of this Service shall be used solely for the purposes of the Clock Service and will not be able to be used for any other purpose (*e.g.,* order routing).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] The Exchange intends to provide this information in nanoseconds by the end of March.

better analyze latencies within their own systems and use this analysis to optimize their network, models and trading patterns to potentially improve their interactions with the Exchange. The ability to more precisely measure network efficiency could provide subscribers with a set of metrics that allow them to better assess the health of their network and that their systems are working as intended. The Exchange anticipates that most, if not all, subscribers to the proposed Clock Service would be those whose trading models are latency sensitive; however, managed service providers may also subscribe in order to redistribute the Cboe Clock to their downstream clients.

The Exchange believes providing this optional clock synchronization service to interested subscribers is, therefore, consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

As noted above, MIAX Emerald currently offers a clock service that has been reviewed and approved by the Commission.[21] MIAX Emerald's clock service is substantially similar to the proposed Clock Service as both offerings synchronize a subscriber's time recording systems to those of the exchange at a more granular level for highly correlated latency measurements between the exchange's and the subscriber system's time measurements related to the same message or order. Both offerings allow subscribers to synchronize their own primary clock devices to the exchange's primary clock device, by receiving time signals from the 1 Gbps connection.

One key distinction between the Exchange's proposed Clock Service and MIAX Emerald's similar offering is that the Exchange includes a 1 Gbps Physical Port as part of its offering for this Clock Service.[22] Similar to MIAX Emerald, this 1 Gbps Physical Port will be used solely for the Clock Service offering.[23] However, a participant that purchases the Exchange's Clock Service will only need one 1 Gbps Physical Port to receive this service for the Exchange and its affiliated equities and options exchanges.[24]

Additionally, MIAX Emerald's offering also utilizes White Rabbit technology.[25] with both services synchronizing a subscriber's time recording systems to those of the respective exchange at a more granular level for highly correlated latency measurements between the respective exchange's and the subscriber system's time measurements related to the same message or order.

The proposed Clock Service also protects investors and the public interest because subscribers may use the Clock Service for determining compliance with trade surveillance and to assist them in evaluating compliance with certain clock synchronization requirements.[26]

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as it will be available to all Members and non-Members who choose to subscribe. Use of the proposed Clock Service would be voluntary and no Member or non-Member would be required to subscribe to the proposed Clock Service.[28] The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. Participants that choose not to subscribe to the proposed Clock Service are free to utilize other time synchronization methods or services that may assist them in time synchronization of their systems at a more granular level. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended. For example, certain participants employ business models that are not latency sensitive, such as those that only enter resting liquidity.

Lastly, the Exchange believes the proposed changes to the title of Rule 13.8 promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes will provide greater clarity to participants and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

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. In this instance, the proposed rule change to offer the optional Clock Service is in response to participant interest and requests for tools that would enable them to better measure traversal times between their network and that of the Exchange at a more granular level.

Intra-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on intra-market competition between participants that choose to subscribe to the Clock Service and those participants that do not. The proposed Clock Service would provide participants with the ability to synchronize their primary clock devices with the Exchange's primary clock device by utilizing technology that allows up to a sub-nanosecond level, which they may then use to measure their network's efficiency to determine whether their systems are performing as expected.

The Exchange notes that the proposed Clock Service would be an additional, optional tool for participants and some participants may not find it useful based on their business needs and trading activity. The proposed Clock Service may not provide utility to all participants based on their business model, use of existing time synchronization methods, or reliance on other methods to test their system's performance to ensure it is operating as intended.

Additionally, some participants may be able to enhance their own traversal time calculations without subscribing to the proposed Clock Service by using other time synchronization methods or utilize some other services that may assist them in time synchronization of their systems. Participants may also

[21] *See* Securities Exchange Act Release No. 94335 (March 1, 2022), 87 FR 12756 (March 7, 2022) (SR–EMERALD–2021–38) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Exchange Rule 531 To Provide for a New Service Called the High Precision Network Time Signal Service) (''Approval Order'').

[22] As noted above, MIAX also requires a 1 Gbps connection.

[23] *See* Securities Exchange Act Release No. 94915 (May 16, 2022), 87 FR 31002 (May 20, 2022) (SR–EMERALD–2022–16).

[24] MIAX Emerald's affiliates do not offer this service, thus the 1 Gbps connection is only used for the MIAX Emerald clock service while the Exchange's proposed offering allows for the Clock Service to be used for the Exchange and its affiliated options and equities exchanges.

[25] *See* MIAX_Emerald_Options_EnhancedPTP_WhiteRabbit_08302021.pdf, noting the White Rabbit technology that is used for this service offering.

[26] *See* Rule 4.6.

[27] 15 U.S.C. 78f(b)(5).

[28] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Clock Service.

prefer to utilize or develop other methods that would enable them to determine whether their own primary clock device is recording time in close proximity to the primary clock devices of other market participants. Participants may view these alternatives as more in line with their business needs or choose an alternative that is more compatible with their existing technology.

Inter-Market Competition

The Exchange does not believe the proposed Clock Service will have an inappropriate burden on inter-market competition. The proposed Clock Service will further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. As previously noted, MIAX Emerald provides a clock service to its Members.[29] The proposed Clock Service would provide subscribers with a tool to assist them in recalibrating their own models and trading strategies to improve their overall experience on the Exchange, thereby potentially improving execution and order fill rates. This may improve the Exchange's overall market quality through increased liquidity and improved execution opportunities for resting orders, enhancing the Exchange's overall competitive position. The proposed rule change should enhance competition by promoting further initiatives and innovation among market centers and market participants as it concerns time measurements and synchronization among trading platforms.

Lastly, if the proposed Clock Service is unattractive to participants, participants will opt not to subscribe to it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of participants or competing order execution venues to maintain their competitive standing in the financial market.

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)[30] of the Act and Rule 19b–4(f)(6)[31] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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[32] and Rule 19b–4(f)(6) thereunder.[33]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[34] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and 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–2026–007 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–CboeEDGA–2026–007. 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–2026–007 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06150 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[29] *See* MIAX Emerald Fee Schedule, Section 8, Services.

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6).

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105097; File No. SR–MRX–2026–11]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing of a Proposed Rule Change To Adopt Extended Trading Hours for Eligible Equity and Index Options

March 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2026, Nasdaq MRX, LLC (''MRX'' or ''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 its rules to adopt extended trading hours to allow for the trading of certain eligible index options and equity options, and make related conforming changes.

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

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rulefilings,* and at the principal office of the Exchange.

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

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

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

1. Purpose

The Exchange proposes to amend its rules to adopt extended trading hours (''Extended Trading Hours'' or ''ETH'') for certain eligible index options and equity options, and to make related conforming changes. Specifically for index options, the Exchange proposes to allow for ETH trading of NDX,[3] NDPX,[4] and XND [5] options during ETH. For equity (*e.g.,* stock and ETF) options, the Exchange proposes to allow for ETH trading of multi-listed equity options that meet certain eligibility criteria based on quantitative metrics like trading volume and market capitalization, which are designed to limit eligibility to actively traded and liquid products. As discussed in detail below, Extended Trading Hours will consist of:

- An early ETH session (''Early ETH Session'') from 7:30 a.m. Eastern Time [6] to 9:25 a.m.; and
- An extended close (''Extended Close'') where trading in certain eligible option classes will extend beyond 4:00 p.m. to 4:15 p.m.

Background

Currently, options transactions may be made on the Exchange from 9:30 a.m. through 4:00 p.m. or 4:15 p.m.[7] (9:30 a.m. through 4:00 p.m. or 4:15 p.m., as applicable, will be referred to as ''Regular Trading Hours'' or ''RTH''). Regular Trading Hours are consistent with the regular trading hours of other U.S. options exchanges and U.S. equity exchanges. However, many U.S. equity exchanges and certain other U.S. options exchanges, including Cboe Exchange, Inc. (''Cboe''), presently allow for trading outside of Regular Trading Hours as well.[8]

The Exchange believes there is investor demand for trading equity options and index options outside of RTH. As noted above, many U.S. equity exchanges allow for trading in securities before and after the regular trading hours of 9:30 a.m. to 4:00 p.m., including in stocks that comprise the Nasdaq-100 Index.[9] It is common for investors to engage in hedging and other investment strategies that involve index options and some of the stocks that comprise the underlying index, as well as investment strategies involving equity options and their underlying securities. Currently, this investment activity on the Exchange would be limited to Regular Trading Hours. Allowing certain eligible index options and equity options to participate during Extended Trading Hours would help align trading in such products to the expanded trading that already occurs for the underlying securities, and help meet investor demand to use these products outside of Regular Trading Hours.

Proposal

To implement Extended Trading Hours, the Exchange proposes to adopt new Options 3C (Extended Trading Hours). All rules applicable to options during Regular Trading Hours will apply to the extent possible to options during Extended Trading Hours, including, without limitation, trading rules, listing rules, and business conduct rules. All Members may (but are not required to) participate in ETH, and Members do not need to separately apply to participate during ETH. The Exchange is therefore adopting new Options 3C to address only the operational and structural differences that are unique to ETH trading while maintaining the applicability of the broader rulebook.

To reflect this concept, proposed Options 3C, Section 1(a) will provide that Options 3C rules will apply only during Extended Trading Hours. Options traded during Extended Trading Hours will be subject to all other rules applicable to options on the Exchange, including, without limitation, the trading rules, the listing rules, and business conduct rules, unless the context otherwise requires or otherwise provided in Options 3C.

Proposed Section 1(b) will provide that for purposes of Options 3C, ''Extended Trading Hours'' or ''ETH'' will mean the trading hours outside of Regular Trading Hours of 9:30 a.m. ET to 4:00 p.m. (or 4:15 p.m. for certain products pursuant to Options 3, Section 1) and will cover:

- the Early ETH Session, as described in Options 3C, Section 2; and
- the Extended Close, as described in Options 3C, Section 2.

Proposed Section 1(c) will provide that for purposes of Options 3C, the ''Extended RTH Session'' will include RTH and the Extended Close.

Proposed Options 3C, Section 2(a) will provide that for option classes designated by the Exchange as eligible for trading pursuant to Options 3C, Section 3, the Early ETH Session will be conducted from 7:30 a.m. ET. to 9:25 a.m. ET on the business days specified in General 3, Rule 1030.[10]

Proposed Section 2(b) will provide that for option classes designated by the Exchange as eligible for trading pursuant to Section 3 below, trading will continue until 4:15 p.m. ET on the business days specified in General 3, Rule 1030.

Proposed Section 2(c) will specify the interaction between the different trading sessions on holidays and shortened trading days. Proposed Section 2(c)(1) will provide that if there are no Regular Trading Hours, there will be no Early ETH Session or Extended Close. Proposed Section 2(c)(2) will provide

[3] NDX options refers to a.m.-settled options on the Nasdaq-100 Index.

[4] NDXP options refers to p.m.-settled options on the Nasdaq-100 Index.

[5] XND options refers to options that are based on 1/100 the value of the Nasdaq-100 Index.

[6] All times in this filing are Eastern Time unless otherwise noted.

[7] *See* Options 3, Section 1.

[8] For example, The Nasdaq Stock Exchange LLC (''Nasdaq'') currently allows for a Pre-Market Hours session from 4:00 a.m. to 9:30 a.m. and a Post-Market Hours session from 4:00 p.m. until 8:00 p.m. *See* Nasdaq Equity 1, Section 1(a)(9). Cboe BZX Exchange, Inc. (''BZX'') also allows for an Early Trading Session from 4:00 a.m. to 8:00 a.m., a Pre-Opening Session from 8:00 a.m. to 9:30 a.m., and an After Hours Trading Session from 4:00 p.m. through 8:00 p.m. See BZX Rule 1.5(c), (r), and (ff). Additionally, Cboe currently allows for the trading of certain index options during Global Trading Hours from 8:15 p.m. (previous day) to 9:25 a.m. and during Curb Trading Hours from 4:15 p.m. to 5:00 p.m. *See* Cboe Rule 5.1(c) and (d). Cboe also currently has a pending proposal to allow for the trading of certain eligible multi-listed equity options during Global Trading Hours. *See* Securities Exchange Act Release No. 104160 (September 30, 2025), 90 FR 48091 (October 3, 2025) (SR–CBOE–2025–079). Further, Cboe C2 Exchange, Inc. (''C2'') currently allows for the trading of certain index options during Global Trading Hours from 8:30 a.m. to 9:15 a.m. See C2 Rule 5.1(c).

[9] As noted above, the proposed eligible index options for ETH trading, NDX, NDXP, and XND options, are all based on the Nasdaq-100 Index.

[10] General 3, Rule 1030, which incorporates Nasdaq General 3, Rule 1030 by reference, provides that the Exchange will be open for the transaction of business days, and lists out the holidays on which the Exchange will not be open for business.

that on a trading day with shortened Regular Trading Hours (*e.g.,* the Exchange is open for a half day of regular trading between 9:30 a.m. through 1 p.m.): (1) the Early ETH Session will occur prior to the shortened Regular Trading Hours; and (2) the Extended Close will commence at the end of the shortened Regular Trading Hours and continue for 15 minutes (*e.g.,* 1:00 p.m. to 1:15 p.m.).

The Exchange recognizes that the proposed Extended Trading Hours are shorter than the extended trading hours for equities, which may commence as early as 4:00 a.m. and conclude as late as 8:00 p.m.[11] Since equity options generally will not trade unless the underlying security also trades, any trading hours outside of RTH available for equity options are limited to extended trading hours available for the underlying equities. Although ETH for equity options could mirror the extended trading hours available for the underlying equities, the Exchange proposes to limit ETH trading, and establishes trading hours for equity options that are notably shorter than the hours of extended trading for equities. The Exchange believes that the shorter Extended Trading Hours running from 7:30 a.m. to 9:25 a.m. and 4:00 p.m. to 4:15 p.m., rather than hours that align with the full extended trading hours available to the underlying equities, is appropriate because of the lack of industry experience with ETH for equity options that are physically-settled. Limiting the ETH window of time for equity options allows for a paced introduction of this new type of trading session for equity options. The limited trading hours for ETH will allow the Exchange to monitor and assess the development and functioning of ETH markets for equity options. As it relates to index options, the Exchange recognizes that the proposed Extended Trading Hours for NDX, NDXP, and XND options are notably shorter than the extended trading hours for certain index options on Cboe.[12] However, the Exchange believes that it is appropriate to align the extended trading hours for both index and equity options on its market to help ensure an orderly and measured implementation, as this is the first time the Exchange is expanding its trading hours beyond RTH. Additionally, the Exchange believes that the proposed timeframe for ETH for both index and equity options can be supported by Market Makers,[13] clearing firms, and other market participants from a personnel coverage perspective.

Extended Hours Trading will allow market participants to engage in trading of designated index and equity options in conjunction with the trading in the underlying securities during these hours. As it relates to trading in multi-listed equity options during ETH, however, since trading in such options is a new initiative, the Exchange proposes in proposed Options 3C, Section 3(a) to limit the number of equity option classes that may be designated for ETH at 100 option classes.[14] The limit is intended to allow the Exchange to monitor and assess the development and functioning of ETH markets for equity options within a limited group of equity options initially.

In particular, proposed Section 3(a) will establish specific eligibility criteria for an equity option class to meet in order to be eligible for ETH trading, and will provide that the Exchange may designate as eligible for trading during ETH up to 100 actively-traded and multiply-listed equity option classes that satisfy the following criteria:

- the option has an average daily volume of 150,000 contracts;
- the underlying equity to the option has a $50 billion market capitalization; and
- the underlying equity to the option has an average daily trading volume of 10 million shares.

The Exchange believes these criteria will help ensure equity options designated for trading in ETH will have sufficient demand and liquidity to support an ETH market. Additionally, this criteria may be waived if, during the three days following an underlying security's initial public offering (''IPO'') day, the underlying security has a market capitalization of at least $3 billion based upon the offering price of its IPO, in which case options on the underlying security may be listed and traded in ETH starting on or after the second business day following the IPO day. If in the case of an IPO, the Exchange waives the criteria to designate an equity option class for ETH, such option class will be included against the 100 option class limit in proposed Section 3(a)(1). The Exchange believes that the requirements established in proposed Section 3 will result in the eligibility of equity option classes for ETH for option classes with the highest anticipated demand.

Proposed Section 3(a)(3) will establish the process by which the Exchange would review and determine eligibility for equity option classes pursuant to proposed Section 3(a)(1). Specifically, the Exchange will determine bi-annually the underlying equities that satisfy the eligibility criteria in subparagraph (1) of Section 3(a) by using trading statistics for the previous six-month period.[15] The Exchange may designate no more than 100 underlying equities that meet the eligibility criteria in subparagraph (1) as eligible for trading during ETH. If more than 100 underlying equities satisfy eligibility criteria in subparagraph (1) above, the Exchange may select the top 100 equity options that have the highest average daily trading volume.

Proposed Section 3(a)(4) will provide that the Exchange may also designate as eligible for trading during ETH any equity option that is traded on another exchange during ETH. Any equity option designated by the Exchange as eligible for ETH trading because the option is traded by another exchange during ETH will not be included against the 100 option class limit in proposed Section 3(a)(1). The Exchange believes that the exclusion from the 100 option class limit of such equity options initially traded during ETH on another options exchange is appropriate for competitive purposes since such listings can indicate the continued expansion of equity options trading outside of RTH. Additionally, this exclusion from the 100 option class limit is similar in structure to the rules for Short Term Options Series, which allows the Exchange to list additional option classes selected by other exchanges under their short term options rules and such selections are in addition to the 50 Short Term Option Series classes that the Exchange may select.[16]

Proposed Section 3(b)(1) will provide that the Exchange may designate as eligible for trading during ETH the following index options: NDX, NDXP, and XND. Proposed Section 3(b)(2) will

[11] *See supra* note 8.

[12] *See supra* note 8.

[13] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(22).

[14] As noted above, Cboe already allows for the trading of certain index options outside of their regular trading hours today. *See supra* note 8.

[15] The Exchange proposes to conduct the bi-annual review on January 1 and July 1 of each year. As such, the six-month periods will be from January to June, and from July to December each year. The result of the bi-annual review will be announced through a public alert to all Members, and any new equity options that qualify would be permitted to trade during ETH beginning on February 1 and August 1 of each year. If the Exchange initially begins to allow for ETH trading on a different date (*e.g.,* September 1), it would initially allow for the trading of equity options during ETH that qualified as of the last bi-annual review (*e.g.,* the one conducted on July 1).

[16] *See* Supplementary Material .03(a) to Options 4, Section 5, which incorporates Nasdaq ISE, LLC (''ISE'') Supplementary Material .03(a) to Options 4, Section 5 by reference.

provide that if the Exchange designates a class of index options as eligible for trading during ETH, Binary Options with the same underlying index are also deemed eligible for trading during ETH.[17] Proposed Section 3(b)(3) will provide that the Exchange will not report a value of an index underlying an index option during ETH because the value of the underlying index will not be recalculated during or at the close of ETH.[18] The closing value of the index from the previous trading day will be available for Members that trade during ETH. However, the Exchange does not believe it would be useful or efficient to disseminate to Members the same value repeatedly at frequent intervals, as it does during Regular Trading Hours (when the index value is being updated).[19]

Proposed Section 3(c) and (d) will specify the eligible option series that would be available during ETH and how expiration day trading for those option series would be handled by the Exchange. In particular, any series in eligible option classes that would be available during the subsequent RTH would be available during the Early ETH Session. Any series in eligible option classes that would be available during the previous RTH would likewise be available during the Extended Close, except for expiring index options. Further, a.m.-settled index options will be available for trading through the Extended Close on the business day prior to expiration, but will not be available for trading during the Early ETH Session on their expiration date. P.m.-settled index options will be available for trading through Regular Trading Hours on their expiration date, but will not be available for trading in the Extended Close on their expiration date. Lastly, equity options will be available for trading through the Extended Close on their expiration date.

Proposed Options 3C, Section 4(a) provides that the Exchange may determine to make the order types and times-in-force (''TIFs'') in Options 3, Section 7 available on a class or System[20] basis during ETH, except as otherwise specified herein. The Exchange notes that it currently has the authority to make certain order types and TIFs available on a class or System basis during RTH pursuant to Options 3, Section 7, and therefore proposes to have similar authority with respect to ETH.

Proposed Section 4(b) provides that Members may designate orders for participation in: (1) Extended RTH Session only, or (2) both the Early ETH Session and Extended RTH Session. All quotes entered during the Early ETH Session will be purged after the end of such session. As discussed in detail below, this is to allow for the System to transition over to Regular Trading Hours.

The Exchange expects reduced liquidity, higher volatility, and wider spreads during ETH. Therefore, the Exchange proposes not to allow Market Orders[21] during ETH and such orders designated for participation in both the Early ETH Session and the Extended RTH Session will be rejected.[22] The Exchange believes it is appropriate to not allow Market Orders during ETH in order to protect customers should wide price fluctuations occur due to the potential illiquid and volatile nature of the market or other factors that could impact market activity.[23]

The Exchange also proposes to not allow Add Liquidity Orders[24] during the Early ETH Session to align with current System functionality where Add Liquidity Orders are not allowed to participate in the RTH opening process. Otherwise, Add Liquidity Orders entered during the Early ETH Session could persist into the next trading session and participate in the RTH opening process if those orders do not execute during the Early ETH Session. Accordingly, proposed Section 4(c) will provide that Add Liquidity Orders designated for participation in both the Early ETH Session and Extended RTH Session will be rejected.

The Exchange also proposes to eliminate the TIFs of Good-Till-Canceled (''GTC'') and Good-Till-Date (''GTD'') from its rulebook to avoid the operational complexity of having such orders persist between trading sessions. Accordingly, the Exchange proposes to delete the GTC and GTD rule text in Supplementary Material .02(b) and (c) of Options 3, Section 7 and in Options 3, Section 14(b)(11) and (12), and reserve those rules. The Exchange also proposes to delete the sentence referencing GTC and GTD orders in Options 3, Section 8(k). In addition, because the Exchange incorporates by reference ISE Options 5 (Order Protections and Locked and Crossed Markets rules) into its Options 5, and ISE Options 5 references GTC and GTD orders therein, the Exchange proposes to add a sentence at the end of its Options 5 providing that notwithstanding the foregoing, all references to ''GTC'' and ''GTD'' in Nasdaq ISE Options 5 will not be incorporated into this Nasdaq MRX Options 5, as those times-in-force designations are not available on Nasdaq MRX.

[17] *See* Securities Exchange Act Release No. 104966 (March 11, 2026), 91 FR 12652 (March 16, 2026) (SR–MRX–2026–05).

[18] *See* Cboe Rule 5.1(c)(3) and (d)(3) for similar provisions.

[19] ISE Options 4A, Section 3(d)(11), which the Exchange incorporates by reference, currently provides that the underlying index value for a broad-based index (*e.g.,* Nasdaq-100 Index) will be widely disseminated at least once every 15 seconds. This provision is superseded with during ETH by proposed Options 3C, Section 3(b)(2), and thus no dissemination will occur during ETH.

[20] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Options 1, Section 1(a)(50).

[21] A Market Order is an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange. Members can designate that their Market Orders not executed after a pre-established period of time, as established by the Exchange, will be cancelled back to the Member, once an options series has opened for trading. Market Orders on the order book would be immediately cancelled if an options series is halted, provided the Member designated the cancellation of Market Order. *See* Options 3, Section 7(a).

[22] *See* proposed Options 3, Section 4(c).

[23] Today, Cboe similarly restricts Market Orders outside of their regular trading hours. *See* Cboe Rule 5.6(b).

[24] An Add Liquidity Order is a limit order that is to be executed in whole or in part on the Exchange (i) only after being displayed on the Exchange's limit order book; and (ii) without routing any portion of the order to another market center. Members may specify whether an Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the national best bid price (for sell orders) or below the national best offer price (for buy orders) if, at the time of entry, the order (i) is executable on the Exchange; or (ii) the order is not executable on the Exchange, but would lock or cross the national best bid or offer. If at the time of entry, an Add Liquidity Order would lock or cross one or more non-displayed orders or quotes on the Exchange, the Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders). Notwithstanding the aforementioned, if an Add Liquidity Order would not lock or cross an order or quote on the System but would lock or cross the NBBO, the order will be handled pursuant to Options 3, Section 5(d). An Add Liquidity Order will be ranked in the Exchange's limit order book in accordance with Options 3, Section 10. Add Liquidity Orders may only be submitted when an options series is open for trading. Add Liquidity Orders may only have a time-in-force designation of Day. *See* Options 3, Section 7(n).

Proposed Section 4(d) will provide that orders are not routable during ETH. As such, all orders during ETH will be required to be entered as Do-Not-Route (''DNR'') orders and may be repriced pursuant to Options 3, Section 5(d) to comply with the Options Order Protection and Locked/Crossed Market Plan (''Linkage Plan'').[25] Options 3, Section 5(d) currently provides that an order would not be executed at a price that trades through another market or displayed at a price that would lock or cross another market and that an order that is designated by a Member as non-routable would be re-priced in order to comply with applicable trade-through and locked and crossed markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it would be re-priced to the current national best offer (for bids) or the current national best bid (for offers) as non-displayed, and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Proposed Options 3C, Section 5 will set forth the opening process for the Early ETH Session. As proposed, the Exchange will use the same opening process described in Options 3, Section 8 for Regular Trading Hours, except everything will be pushed back by two hours for the Early ETH Session opening process. Specifically, the opening process for the Early ETH Session will be triggered by the first disseminated trade or first disseminated quote on the primary market after 7:30 a.m. (versus 9:30 a.m. for the RTH opening). In addition, Market Maker Valid Width Quotes[26] and Opening Sweeps[27] received starting at 7:25 a.m. (versus 9:25 a.m. as currently provided for the RTH opening) will be included in the Early ETH Session opening process. Orders designated for both the Early ETH Session and Extended RTH Session, and entered at any time before an eligible option series opens are included in the Early ETH Session opening process. This is consistent with the current RTH opening process mechanics in Options 3, Section 8(c), including where Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. are included in the RTH opening process. However, the Exchange also proposes to modify this RTH opening process time from 9:25 a.m. to 9:26 a.m. in order to provide the Exchange time to transition between the Early ETH Session and Regular Trading Hours. Because the Early ETH Session would last between 7:30 a.m. to 9:25 a.m., the Exchange would use the one-minute time period between the end of the Early ETH Session at 9:25 a.m. and the time in which it would begin to accept Market Maker interest for the RTH opening process at 9:26 a.m. to purge quotes from the Early ETH Session and prepare to transition over to the next trading session.

The Exchange also proposes to explicitly provide in Options 3C, Section 5(d) that orders would not be routable during the Early ETH Session opening process and that such orders would be required to be entered as DNR orders, consistent with the proposal to not allow routing during the remainder of the Early ETH Session. As such, an order during the Early ETH Session opening process may similarly be repriced pursuant to Options 3, Section 5(d) to comply with the Linkage Plan.

Proposed Options 3C, Section 6 will set forth the trading halt provisions for the Early ETH Session. The trading halt provisions applicable to equity options and index options during RTH will generally apply to those options during the Early ETH Session, except limit-up limit-down trading pauses and market-wide circuit breakers because those trading halts by their terms only apply during RTH. Accordingly, the Exchange proposes that for equity options, the Exchange will follow the trading halt and reopening halt procedures in Options 3, Sections 9(a)[28] and (b),[29] for index options the Exchange will follow the trading halt and reopening procedures in Options 4A, Sections

[25] The Linkage Plan requires U.S. options exchanges to establish a framework for providing order protection and addressing locked and crossed markets in eligible options classes. The Linkage Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. The full text of the Linkage Plan is available at *https://www.theocc.com/getcontentasset/7fc629d9-4e54-4b99-9f11-c0e4db1a2266/dfc3d011-8f63-43f6-9ed8-4b444333a1d0/options_order_protection_plan.pdf.* All operating U.S. options exchanges participate in the Linkage Plan. If another U.S. options exchange lists any of the eligible option classes outside of RTH, trading of such option classes on the Exchange would comply with the Linkage Plan. As noted above, Cboe currently has a pending proposal to list and trade eligible multi-listed equity options outside of their regular trading hours. *See supra* note 8.

[26] A ''Valid Width Quote'' is a two-sided electronic quotation submitted by a Market Maker that meets the following requirements: differentials shall be no more than $5, provided that, in the case of equity options, the bid/ask differential stated above shall not apply to in-the-money series where the market for the underlying security is wider than the differential set forth above. The bid/ask differentials for in-the-money options series may be as wide as the quotation for the underlying security on the primary market, or its decimal equivalent rounded down to the nearest minimum increment. The Exchange may establish differences other than the above for one or more series or classes of options. Such differences will be posted by the Exchange on its website. *See* Options 3, Section 8(a)(8).

[27] An Opening Sweep is a one-sided order entered by a Market Maker through SQF for execution against eligible interest in the System during the Opening Process. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments and Market Wide Risk Protection. The Opening Sweep will only participate in the Opening Process pursuant to Options 3, Section 8(b)(1) and will be cancelled upon the open if not executed. *See* Options 3, Section 7(u).

[28] An Exchange official designated by the Board may halt trading in any stock option in the interests of a fair and orderly market. The following are among the factors that may be considered in determining whether the trading in a stock option should be halted: (i) trading in the underlying security has been halted or suspended in one or more of the markets trading the underlying security, (ii) the opening of such underlying security has been delayed because of unusual circumstances, (iii) other unusual conditions or circumstances are present. In addition, a designated Exchange official may halt trading (including a rotation) for a class or classes of options contracts whenever there is a halt of trading in an underlying security in one or more of the markets trading the underlying security. In such event, without the need for action by the Primary Market Maker, all trading in the effected class or classes of options may be halted. The Exchange shall disseminate through its trading facilities and over OPRA a symbol in respect of such class or classes of options indicating that trading has been halted, and a record of the time and duration of the halt shall be made available to vendors. No Member or person associated with a Member shall effect a trade on the Exchange in any options class in which trading has been halted under the provisions of this Rule during the time in which the halt remains in effect. During a halt, the Exchange will maintain existing orders on the book (but not existing quotes prior to the halt), accept orders and quotes, and process cancels and modifications, except existing quotes are cancelled. During a halt, existing auction orders and auction responses, as well as Crossing Orders, are rejected. *See* Options 3, Section 9(a).

[29] Trading in a stock option that has been the subject of a halt under paragraph (a)(1) above may be resumed upon the determination by an Exchange official designated by the Board that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. *See* Options 3, Section 9(b).

11(c),[30] (d),[31] and (f).[32] The Exchange also proposes that notwithstanding the foregoing, the Exchange may also determine to manually halt or resume trading during the Early ETH Session at times other than prescribed under proposed Section 6 if it is determined to be in the interests of a fair and orderly market and to protect investors pursuant to Options 3, Section 9(a) for equity options and Options 4A, Section 11(c) for index options. Proposed Section 6(d) will provide that no Member will effect a trade in any option class in which trading has been halted under the provisions of this Rule during the time in which the halt remains in effect. The Exchange will nullify any transaction that occurs: (1) during a trading halt in the affected option on the Exchange; or (2) with respect to equity options, during a regulatory halt as declared by the primary listing market for the underlying security. This aligns with the Exchange's current halt process in Supplementary Material .01 to Options 3, Section 9.[33]

Proposed Options 3C, Section 7 will set forth the provisions applicable to Market Makers during ETH. Proposed Section 7(a) will provide that the same Market Maker appointments will apply across RTH and ETH. Accordingly, if an option class is designated by the Exchange as eligible for trading during ETH pursuant to proposed Section 3, the Market Maker appointed to that option class during RTH pursuant to Options 2, Section 3 would automatically receive the appointment in such option class during ETH. Proposed Section 7(b) will provide that during any given Early ETH Session, a Market Maker is not required to enter quotations in the option class to which it is appointed. If, however, a Market Maker chooses to enter quotations in its assigned option class during the Early ETH Session, it will be subject to the continuous quoting obligations in Options 2, Section 5(e), which will apply across trading sessions and will be calculated pursuant to subparagraph (1) below. Given that participation in ETH trading is optional for all Members (including Market Makers) and Market Makers may not choose to participate, the proposal ensures that quoting obligations only apply during trading sessions in which the Market Maker participates.

Proposed subparagraph (1) of Section 7(b) will provide that if a Market Maker chooses to enter quotations in its assigned option class during the Early ETH Session, the Exchange will calculate the continuous quoting obligations in Options 2, Section (5)(e)(1)–(3) by (i) taking the total number of seconds the Member disseminates quotes in each assigned options series, excluding, for Competitive Market Makers and Preferred CMMs, Quarterly Options Series, any Adjusted Options Series, and any option series with an expiration of nine months or greater for options on equities and ETFs or with an expiration of twelve months or greater for index options; and (ii) dividing that time by the eligible total number of seconds each assigned option series in the options class is open for trading across all trading sessions. Compliance with this requirement is determined by reviewing the aggregate of quoting in assigned options series for the Member across all trading sessions. The Exchange notes that this is substantially similar to how it calculates the continuous quoting obligations today and as set forth in Options 2, Section 5(e)(4), except the Exchange is making clear for ETH that if a Market Maker chooses to quote in ETH, their ETH quoting time is aggregated with their RTH quoting time (*i.e.,* across all trading sessions) for purposes of determining compliance. In other words, the Exchange is modifying the denominator in the calculation proposed in subparagraph (1) to encompass all trading sessions.

Proposed subparagraph (2) of Section 7(b) will provide that a Market Maker that does not submit any quotes in their appointed option class during the Early ETH Session will not be subject to the continuous quoting obligations in Options 3, Section 5(e) for that class during the Early ETH Session. Notwithstanding the foregoing, nothing in proposed Options 3C, Section 7(b) relieves the Market Maker of its continuous quoting obligations during the Regular Trading Session.

Proposed Section 3C, Section 8 will provide that no Market Maker shall effect any transaction during ETH unless one or more effective letter(s) of guarantee has been issued by a Clearing Member [34] and filed with the Exchange accepting financial responsibility for all transactions made by the Market Maker pursuant to Options 6, Section 4.[35]

Proposed Options 3C, Section 9 will require Members to make certain disclosures to customers regarding material trading risks that exist during Extended Trading Hours. The Exchange expects overall lower levels of trading during ETH compared to RTH. While trading processes during ETH will be substantially similar to trading processes during RTH (as discussed above), the Exchange believes it is important for investors, particularly public customers, to be aware of any differences and risks that may result from lower trading levels and thus will require these disclosures. Proposed Section 9(a) will provide that no Member may accept an order from a customer for execution during Extended

[30] Trading on the Exchange in any index option shall be halted or suspended whenever trading in underlying securities whose weighted value represents more than twenty percent (20%), in the case of a broad based index, and ten percent (10%) for all other indices, of the index value is halted or suspended. An Exchange official designated by the Board also may halt trading in an index option when, in his or her judgment, such action is appropriate in the interests of a fair and orderly market and to protect investors. Among the facts that may be considered are the following: (1) whether all trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks in the underlying foreign currency market; (2) whether the current calculation of the index derived from the current market prices of the stocks is not available the current prices of the underlying foreign currency is not available; (3) the extent to which the rotation has been completed or other factors regarding the status of the rotation; and (4) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, including, but not limited to, the activation of price limits on futures exchanges. *See* Options 4A, Section 11(c).

[31] Trading in options of a class or series that has been the subject of a halt or suspension by the Exchange may resume if an Exchange official designated by the Board determines that the interests of a fair and orderly market are served by a resumption of trading. Among the factors to be considered in making this determination are whether the conditions that led to the halt or suspension are no longer present, and the extent to which trading is occurring in stocks or currencies underlying an index. Upon reopening, a rotation shall be held in each class of index options unless an Exchange official designated by the Board concludes that a different method of reopening is appropriate under the circumstances, including but not limited to, no rotation, an abbreviated rotation or any other variation in the manner of the rotation. *See* Options 4A, Section 11(d).

[32] With respect to foreign indexes, when the hours of trading of the underlying primary securities market for an index option do not overlap or coincide with those of the Exchange, all of the provisions as described in paragraphs (c), (d) and (e) of Options 4A, Section 11 shall not apply except for (c)(4). *See* Options 4A, Section 11(f).

[33] *See also* Cboe Rule 5.20(c) for similar provisions during their global trading hours.

[34] The term ''Clearing Member'' means a Member that is self-clearing or an Electronic Access Member that clears Exchange Transactions for other Members of the Exchange. *See* General 1, Section 1(a)(4).

[35] Options 6, Section 4 provides that no Market Maker shall make any transactions on the Exchange unless a Letter of Guarantee has been issued for such Member by a Clearing Member and filed with the Exchange, and unless such Letter of Guarantee has not been revoked pursuant to paragraph (c) of this Rule. A Letter of Guarantee shall provide that the issuing Clearing Member accepts financial responsibilities for all Exchange Transactions made by the guaranteed Member. As set forth in General 1, Section 1(a)(9), the term ''Exchange Transaction'' means a transaction executed on or through the facilities of the Exchange.

Trading Hours without disclosing to that customer that trading during Extended Trading Hours involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, an exaggerated effect from news announcements, wider spreads, the absence of an updated underlying index or portfolio value or intraday indicative value and lack of regular trading in the securities underlying the index or portfolio and any other relevant risk. The proposed rule provides an example of these disclosures in paragraphs (1)–(6). The Exchange believes that requiring Members to disclose these risks to non-Member customers will facilitate informed participation in Extended Trading Hours.[36]

As discussed above, the differences in the Rules between the trading process during RTH and ETH is that certain order types and instructions like routing will not be available during ETH, no values for indexes underlying index options will be disseminated during ETH, and Members that accept orders from customers during ETH will be required to make certain disclosures to those customers. The differences described above are consistent with the Exchange's goal to permit ETH trading for those Members that choose to do so without imposing additional burdens on those that do not. The Exchange also notes the following in connection with this goal:

- The Exchange will not require any Member to participate during ETH. Trading during ETH will be optional.
- The Exchange will minimize Members' preparation efforts to the greatest extent possible by allowing Members to trade during ETH with the same ports, data feeds, that they use during RTH.
- The same opening process (with the small change discussed above to move the RTH opening process time from 9:25 a.m. to 9:26 a.m.) will be used to open each trading session.
- Order processing will operate in the same manner during ETH as it does for RTH. There will be no changes to the ranking, display, or allocation algorithm rules.
- There will be no changes to the processes for clearing, settlement, exercise, and expiration.[37]
- The Exchange will report the Exchange best bid and offer and executed trades to the Options Price Reporting Authority (''OPRA'') during ETH in the same manner they are reporting during RTH. Exchange proprietary data feeds will also be disseminated during ETH using the same formats and delivery mechanisms with which the Exchange disseminates during RTH. Use of these proprietary data feeds will be optional (as they are during RTH).
- The Exchange will perform all necessary surveillance coverage during ETH.
- The Exchange will process all obvious error breaks during ETH in the same manner as it does during RTH and will have personnel available to do so.
- The Exchange will disseminate last sale and quotation information during ETH through OPRA pursuant to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''), as it does during RTH.[38]

The Exchange understands that systems and other issues may arise and is committed to resolving those issues as quickly as possible, including during ETH. Thus, the Exchange will have appropriate staff available as necessary during ETH to handle any technical and support issues that may arise during those hours. Additionally, the Exchange will have personnel available to address any trading issues that may arise during ETH. The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during ETH, and will have appropriately trained, qualified regulatory staff in place during ETH to the extent it deems necessary to satisfy those obligations. The Exchange believes its surveillance procedures are adequate to properly monitor trading of eligible equity and index options during ETH.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[39] in general, and furthers the objectives of Section 6(b)(5) of the Act,[40] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the proposed rule change to adopt Extended Trading Hours will remove impediments to and perfect the mechanism of a free and open market and a national market system. Extended Trading Hours is a competitive initiative designed to improve the Exchange's marketplace for the benefit of investors. The proposed rule change provides a new investment opportunity within the options trading industry that more closely aligns the Exchange's trading hours with extended trading hours of stock exchanges and other options exchanges.[41] The Exchange believes that the proposed rule change will enhance competition by providing a service to investors that most other options exchanges are currently not providing. The Exchange believes the competition among exchanges ultimately benefits the entire marketplace. Given the robust competition among options exchanges, innovative trading mechanisms are consistent with the above-mentioned goals of the Act.

The proposed rule change also provides a mechanism for the Exchange to more effectively compete with exchanges located outside the United States. Global markets have become increasingly interdependent and linked, both psychologically and through improved communications technology. This has been accompanied by an increased desire among investors to have access to U.S.-listed exchange products outside of Regular Trading Hours, and the Exchange believes this desire extends to index and equity options. The Exchange believes that its proposal is reasonably designed to provide an appropriate mechanism for trading outside RTH while providing for appropriate Exchange oversight and surveillance pursuant to the Act.

As noted above, the Commission has authorized stock exchanges and a small number of options exchanges to be open for trading outside of RTH pursuant to the Act.[42] Thus, the proposed rule change to adopt ETH is not novel or unique. As the proposed rule change is a new Exchange initiative, the Exchange believes it is reasonable to trade a limited number of index and equity option classes for which demand is anticipated to be the highest during ETH

[36] *See* Cboe 9.20 for materially identical disclosure requirements during their global trading hours.

[37] The Exchange has held discussions with the Options Clearing Corporation, which is responsible for clearing and settlement of all listed options transactions and has informed the Exchange that it will be able to clear and settle all transactions that occur on the Exchange and handle exercises of options during ETH.

[38] The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are trading on the participant exchanges. The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. *See* Securities Exchange Act Release No. 17638 (March 18, 1981). The full text of the OPRA Plan is available at *www.opraplan.com.* All operating U.S. options exchanges participate in the OPRA Plan.

[39] 15 U.S.C. 78f(b).

[40] 15 U.S.C. 78f(b)(5).

[41] *See supra* note 8.

[42] *See supra* note 8.

upon implementation of ETH trading in those options.

The vast majority of the Exchange's rules applicable to options, including, without limitation, trading rules, listing rules, and business conduct rules, will apply during ETH in the same manner as during RTH (other than as specified above). These rules have all been previously filed with the Commission and established as being consistent with the goals of the Act. Examples of rules that will apply equally during ETH include rules that protect public customers, impose best execution requirements on Members, and prohibit acts and practices that are inconsistent with just and equitable principles of trade as well as fraudulent and manipulative practices. The proposed rule change also provides opportunities for price improvement during ETH and applies the same allocation and priority rules that are available on the Exchange during RTH. The Exchange therefore believes that the rules that will apply during ETH will continue to promote just and equitable principles of trade and prevent fraudulent and manipulative acts.

The proposed rule change clearly identifies the ways in which trading during ETH will differ from trading during RTH (such as identifying order types and instructions that will not be available during ETH) in new Options 3C. This ensures that investors would be aware of any differences among trading sessions. The Exchange believes that the differences are consistent with the expected differences in liquidity, participation, and trading activity between RTH and ETH. Additionally, to further protect investors from any additional risks related to trading during ETH, the proposed rule change requires that disclosures be made to customers describing these potential risks. Consistent with the goals of investor protection, the Exchange will not allow Market Orders during ETH due to the expected increased volatility and decreased liquidity during those hours.

Additionally, the Exchange believes that the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, as the Exchange will ensure that adequate staffing is available during ETH to provide appropriate trading support during those hours, as well as Exchange personnel to make any necessary determinations under the rules during ETH (such as trading halts and trade nullification for obvious errors). The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during ETH. The Exchange believes its surveillance procedures are adequate to properly monitor trading in eligible index and equity options during ETH. Clearing and settlement processes will be the same for ETH as they are for RTH transactions.

The proposed rule change further removes impediments to a free and open market and does not unfairly discriminate among market participants, as all Members with access to the Exchange may trade during ETH using the same ports and data feeds they use during RTH, minimizing any preparation efforts necessary to participate during ETH. Members will not be required to trade during ETH.

As discussed above, Market Makers will be subject to the same continuous quoting obligations in Options 2, Section 5(e) during the Early ETH Session with respect to their option class appointments as they are during the Extended RTH Session, provided that these obligations would be triggered during the Early ETH Session if the Market Maker chooses to enter quotes during that trading session. In such cases, the Market Maker's quoting activity would be aggregated for all trading sessions to determine whether the Market Maker met its continuous quoting obligations. The Exchange believes that these provisions reflect different liquidity and participation dynamics of the Early ETH Session and the Extended RTH Session. The Exchange expects lower levels of trading during the Early ETH Session compared to the Extended RTH Session, which could result in potentially lower liquidity (including fewer Market Makers quoting), higher volatility, and wider spreads. Accordingly, the Exchange is structuring Member (including Market Maker) participation in the Early ETH Session as voluntary to provide them with the choice to engage in that market. If the Exchange required Market Makers to meet continuous quoting obligations during the Early ETH Session even though a Market Maker chose not to participate in that session, the Market Maker could be penalized for choosing not to quote during the Early ETH Session while nonetheless meeting their continuous quoting obligations during the Extended RTH Session. The Exchange believes that the proposed trading session-based calculation promotes clarity and would encourage Market Maker participation in the Early ETH Session without inadvertently penalizing them if they choose not to participate in the Early ETH Session for that day.

The proposed rule change is also consistent with Section 11A of the Act and Regulation NMS thereunder, because it provides for the dissemination of transaction and quotation information during ETH through OPRA, pursuant to the OPRA Plan, which the Commission approved and indicated as consistent with the Act. The Exchange will also comply with the Linkage Plan for all eligible option classes that list and trade on another U.S. options exchange outside of RTH.[43]

The proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because, as noted above, other options exchanges currently offer trading in certain index options outside of RTH.[44] The Exchange believes that the proposed rule change will also help further competition by providing market participants by providing market participants with yet another investment option.

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 does not believe that the proposed rule change will impose an undue burden on intra-market competition because all Members will be able, but not required, to participate during Extended Trading Hours. Participation in ETH will be voluntary and within the discretion of Members. As discussed above, the Exchange is proposing to impose the same percentage requirements with respect to the continuous quoting obligations for Market Makers, but would impose these obligations during the Early ETH Session if the Market Maker chooses to enter quotes during that session. The Exchange would then calculate these obligations together for the Early ETH Session and the Extended RTH Session. The Exchange believes this is appropriate given that a Market Maker's continuous quoting obligations would be triggered in the Early ETH Session if they decided to begin quoting in their appointed option class. The Exchange believes that its proposal promotes clarity and would encourage Market Maker participation during the Early ETH Session without inadvertently penalizing them if they choose not to participate in the Early ETH Session for that day.

[43] *See supra* note 25.

[44] *See supra* note 8.

The Exchange does not believe the proposed rule change to adopt Extended Trading Hours will impose an undue burden on inter-market competition because the proposed rule change is a competitive initiative that will benefit the marketplace and investors. The Exchange believes that the proposed rule change enhances competition by providing a service to investors that only a small number of options exchanges currently provide.[45] Additionally, all options exchanges are free to compete in the same manner. The Exchange further believes that the same level of competition among options exchanges will continue during Regular Trading Hours. The Exchange also believes that the proposed rule change could increase its competitive position outside of the United States by providing investors with an additional investment vehicle with respect to their global trading strategies during times that correspond with parts of regular trading hours outside of the United States.

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

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

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

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MRX–2026–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MRX–2026–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MRX–2026–11 and should be submitted on or before April 21, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06153 Filed 3–30–26; 8:45 am]

BILLING CODE 8011–01–P

[45] *See supra* note 8.

[46] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2026–0331]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA.

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833–410–1631, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAmain* by clicking on Currently under Review—Open for Public Comments and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA–2026–0331] in your submitted response.

SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 30, 2026. Individuals can obtain copies of this OMB clearance package by writing to the *OR.Reports.Clearance@ssa.gov.*

mySocial Security—Security Authentication PIN—20 CFR 401.45—0960–0846

In March 2025, SSA announced that new measures were being implemented to enhance security through stronger identity verification procedures. As initially announced, the new procedures were to apply to all benefit claims and direct deposit changes, for which customers would need to use their *my* Social Security account (with online identity proofing) or visit an office to prove their identity in person. In other words, once the new measures were implemented, new benefit clams and direct deposit changes could no longer be completed over the telephone. In response to feedback from customers, Congress, advocates and others, SSA revised this plan several times after it was first announced. Today (and since at least July 2025), the enhanced identity verification procedures apply only to direct deposit changes; and using the Security Authentication PIN process described herein, customers can still make direct deposit changes over the telephone.

To support these enhanced identity proofing measures, in April 2025, SSA published an Emergency Request FRN on April 18, 2025, at 90 FR 16583, then, upon OMB's approval of the Emergency Clearance, implemented a hybrid

identity proofing process called the *my* Social Security—Security Authentication PIN (SAP) that provides identity proofing parity with our online and in-person modalities. Utilizing the SAP process provides the necessary identity verification to allow direct deposit changes via phone, while ensuring fraud protection through stronger verification of the identity of the individual prior to accessing or revising their account.

OMB granted an Emergency approval for the *my* Social Security—Security Authentication PIN (SAP) collection. We are publishing this 30-day comment period Notice to initiate the full information collection request renewal for the SAP process. We received public comments on the Emergency FRN and on the 60-day comment period FRN which we addressed within the documentation for the full renewal.

Background

Our prior telephone process for direct deposit required respondents to use knowledge-based questions and match information in SSA's records to verify their identity. Knowledge-based identity verification methods are susceptible to compromise by bad actors who have become increasingly capable of obtaining the answers to knowledge-based questions. Direct deposit changes provide an opportunity for attackers to convert beneficiary payments to their own use. Consequently, we consider direct deposit changes to be a higher risk task meriting a heightened identity assurance standard. To ensure that higher level of identity verification, we instituted the SAP process to ensure higher security for the submission of financial data to SSA over the telephone.

We continue to offer other ways to make direct deposit changes including in-person at a field office; online through *my* Social Security; and automated enrollment through the customer's bank.

Description of the Security Authentication PIN (SAP) Process

SSA's hybrid Security Authentication PIN (SAP) digitally verifies the identity of a telephone respondent (whether a beneficiary or recipient, or his or her representative payee) over the phone with an SSA technician. In addition, for circumstances where a respondent is seeking direct deposit requests in-person at a field office and he or she is required to provide an acceptable form of identification (*e.g.,* State ID/driver's license, U.S. Passport, etc.), the SAP provides an alternative option for individuals who do not have the requisite identity document with them at the time.

When respondents call SSA to request a change to their direct deposit, the automated telephone system informs them that they will have to log into their *my* Social Security accounts to request a SAP code before they are automatically placed in a dedicated call back queue. Once added to the dedicated callback queue, the next available technician places an outbound call to the respondent and, upon connecting with the respondent, asks if the respondent has a *my* Social Security account. If the respondent does, the technician asks him or her to log into the account through a dedicated vanity URL link (*www.ssa.gov/pin*), or sends the link to the respondent via email or text message so that the respondent may authenticate using their online account and generate an eight-digit SAP. SSA created the user-friendly vanity URL (a custom, short-cut URL) that navigates respondents directly to the SAP generation page, allowing them to quickly and easily generate the SAP after accessing their account to ease the burden on customers. This feature reduces the burden on the respondent to navigate within his or her online account, authenticate, and generate the SAP. Once created, the SAP is valid for three hours and generates immediately when the respondent selects ''Generate PIN'' from the link the technician provides. There is no limit to the number of SAPs a customer can generate during a single transaction.

The process works as follows:

For first or third party (individual representative payees requesting post-entitlement direct deposit actions) respondents who contact SSA by telephone:

- Upon connecting with our automated telephone system, the system asks the respondent to give the reason for his or her call. If he or she responds by requesting a change to his or her direct deposit, the system informs the respondent that he or she must first generate a secure, one-time code by going to *ssa.gov/PIN* and reminds the respondent that he or she can also make these updates using either their secure *my* Social Security account or by contacting his or her financial institution. Following these instructions, the system informs the caller that he or she will receive a callback and will have the opportunity to update the phone number we use to contact him or her.
- The system then adds the caller to the dedicated callback queue. Once added to the dedicated callback queue, the next available technician places an outbound call to the respondent and, upon connecting with the respondent, asks if he or she has a *my* Social Security account.

○ If the answer is ''Yes'':

▪ The technician provides the respondent with a direct link to his or her *my* Social Security account SAP page, either by reading the vanity URL to the respondent or by sending the link via email or text, where the respondent can generate an 8-digit Security SAP after signing into his or her account and successfully completing Multifactor Authentication (MFA) through SSA's current credentialing and authentication process (OMB No. 0960–0789).

▪ The respondent uses the direct link to generate a SAP using the ''Generate PIN'' button on his or her *my* Social Security account SAP page.

▪ The SAP code is valid for three hours, so if the callers are disconnected, they can still use this SAP within the three-hour period. The respondents can generate a new SAP at any time.

- **Note:** Generating the SAP allows the respondents to safely complete their direct deposit changes over the telephone and replaces the need for the respondents to either complete their direct deposit changes in person or through a *my* Social Security account. Since the SAP process takes about the same time as logging into a *my* Social Security account, it does not change the time burden for the respondents.

▪ The respondent provides the SAP to the technician and the technician enters the SAP in TED to verify the respondent's identity.

- If the SAP matches the information in the system, the call continues, and the respondent can make direct deposit changes via telephone.
- If the SAP does not match, the technician requests the respondent generate a new SAP and attempt to verify again. If the respondent is unable to verify the SAP, the technician informs the respondent that he or she will need to either complete the direct deposit change request through his or her *my* Social Security account; ask his or her bank to make the change through the Automated Enrollment (ENR) process; or offers an appointment for an in-person visit to a field office to complete the direct deposit changes.

○ If the answer is ''No.'':

▪ The technician informs the respondents that he or she will need to either complete the direct deposit request through his or her *my* Social Security account; ask his or her bank to make the change through the Automated Enrollment (ENR) process; or offers him or her an appointment for an in-person visit to a field office to complete the direct deposit changes.

• End call.

○ **Note:** Organizational Payees maintain their ability to add, change, or remove direct deposit or direct express information as they have previously and continue to operate outside of the SAP process. We only require individual representative payees who are not Organizational Payees to complete the SAP process on their own behalf to establish their identities with SSA before making direct deposit changes on behalf of the claimant they are representing.

For Respondents who visit SSA in person to request direct deposit changes but do not have the necessary identity document(s) to authenticate themselves:

• The technician requests the respondent's SSN.

• The respondent provides the SSN to technician.

• The technician requests acceptable forms of identification (*e.g.,* State ID/driver's license, U.S. Passport, etc.).

• If the respondent does not have an acceptable form of identification on his or her person, the technician asks if the respondent has an online *my* Social Security account. If he or she does, the technician asks if he or she wants to generate a SAP code.

○ If the answer is ''Yes'':

■ The technician provides the respondent with a direct link to the SAP screen, either by reading the vanity URL to the respondent or by sending a link via email or text, where the respondent can generate an 8-digit Security Authentication PIN (SAP) after the respondent signs into his or her *my* Social Security account and successfully completes Multifactor Authentication (MFA). The SAP is valid for three hours. The respondent can generate a new SAP at any time, if required.

■ The technician waits (and, if needed assists) the respondent in logging into his or her *my* Social Security account.

■ The respondent uses the vanity URL to generate the SAP using the ''Generate PIN'' button from within the *my* Social Security account.

• **Note:** The SAP replaces the need for respondents to submit their identifying documents in person. Therefore, the SAP process does not change the time burden for the respondents.

■ The technician enters the SAP in TED to verify respondent's identity.

• If the SAP matches the information in the system, the technician continues by providing the requested direct deposit changes (*e.g.,* making a payment method change).

• If the SAP does not match, the technician asks the respondent to use the ''Generate PIN'' button to generate a new SAP. Then the technician helps the respondent proceed through steps 2–4 again.

• If the SAP does not match the second time, the technician helps the respondent set up a second in-person appointment with a reminder to bring identifying documents to that appointment and reminds the respondent that he or she can ask the bank to make the change through the Automated Enrollment (ENR) process.

○ If the answer is ''No'':

■ The technician helps the respondent set up a second in-person appointment with a reminder to bring identifying documents to that appointment.

Information the Security Authentication PIN Tool Will Collect

While the public-facing SAP tool itself does not collect any information, the process of creating or logging into a *my* Social Security account requires the respondent to submit several pieces of identifying information (such as an email address, a password, selecting a multi-factor authentication method, and completing identity proofing, which entails uploading an ID and taking a ''selfie'') to both sign up/or use *ID.me* or *Login.gov*, and to use the enhanced multi-factor identification tool each time the respondent logs in to the account. We previously obtained OMB approval for the burden associated with the creation of the *my* Social Security account under SSA's Public Credentialing and Authentication Process (OMB No. 0960–0789) which utilizes *ID.me* and *Login.gov* for authentication purposes. However, while the creation of a *my* Social Security account is already covered under a separate OMB Control number, we are accounting for the increased burden associated with generating a SAP through *my* Social Security to complete a direct deposit transaction with SSA over the telephone.

For Respondents, or their Representative Payees, who cite a dire need situation to conduct business over the phone for Direct Deposit (who are unable to generate the SAP or visit a field office):

For respondents meeting certain dire need criteria, SSA may permit respondents to make direct deposit changes by telephone without SAP authentication. Respondents meeting the exception criteria are identified through a personal interview with a technician using Form SSA–553, Special Determination. The technician initiates the exception process during the interview for the SAP process if the respondent is unable to complete the SAP process or visit a field office due to severe restrictions. In those cases, the SSA technician, or SSA management, completes the fillable PDF version of the SSA–553 during the personal telephone interview. The technician then submits the completed SSA–533 to SSA management who reviews the request and decides whether to grant the exception based on the information provided. If management grants the exception, the respondent uses knowledge-based verification over the phone prior to completing his or her direct deposit changes (the same verification we use for our other telephone services). Since this process is less effective in mitigating fraud and securing financial information, SSA limits the use of this request to dire need situations. SSA technicians determine dire need on a case-by-case basis.

The respondents are individuals who wish to do business with SSA over the telephone or in person for the purpose of direct deposit enrollments, updates or cancellations.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office and teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Respondents requesting phone-based assistance changes for direct deposit using the SAP process	528,626	1	5	44,052	* $23.47	** 6	*** $2,274,595
Respondents requesting changes for direct deposit who failed SAP over the phone	+ 26,343	1	4	1,756	* 23.47	** 6	*** 103,033
Respondents requesting direct deposit who chose to visit a field office who need identity proofing via SAP	++ 395	1	5	33	* 23.47	** 23	*** 4,318

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office and teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Respondents who drop out of SAP and use an alternate method for changing direct deposit.+++	2,084,532	1	9	312,680	*23.47	**23	***26,092,796
Totals	2,639,896			358,521			***28,474,742

+ **Note**: this figure does not include the knowledge-based questions; however, we will use this figure in place of the knowledge-based question figure currently listed under OMB No. 0960–0789 for telephone respondents.

++ We note that some of these respondents may already have *my* Social Security accounts. For the purposes of this information collection, we will assume they need to create an account which is why they needed to go into the field office, and we account for burden to create an account under OMB No. 0960–0789.

+++ All of our methods for direct deposit changes are OMB approved; therefore, we do not account for any additional burden here.

* We based this figure by averaging both the average DI payments based on SSA's current FY 2026 data (Effect of COLA on Average Social Security Benefits), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (Occupational Employment and Wage Statistics).

** We based this figure on the average FY 2026 wait times for the teleservice centers and dedicated direct deposit queues (telephone and field office), based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this online tool; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the tool. *There is no actual charge to respondents to complete the online tool.*

Dated: March 27, 2026.

Mark Steffensen,

General Counsel, Chief of Law and Policy, Social Security Administration.

[FR Doc. 2026–06182 Filed 3–30–26; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 12981]

30-Day Notice of Proposed Information Collection: Technology Security/ Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, Andrea Battista, who may be reached at *battistaal@state.gov* via email and 202–992–0973 via phone.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18(c)(2).
- *OMB Control Number:* 1405–0195.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls (PM/DDTC).
- *Form Number:* No form.
- *Respondents:* Business and Nonprofit Organizations.
- *Estimated Number of Respondents:* 10,000.
- *Estimated Number of Responses:* 10,000.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 100,000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The export, temporary import, and brokering of defense articles, defense services, and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in accordance with the International Traffic in Arms Regulations (''ITAR,'' 22 CFR parts 120–130) and Section 38 of the Arms Export Control Act (''AECA'').

ITAR § 126.18 eliminates, subject to certain conditions, the requirement for an approval by DDTC of the transfer of unclassified defense articles, which includes technical data, to or within a foreign business entity, foreign governmental entity, or international organization that is an authorized end-user or consignee (including transfers to approved sub-licensees) for defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees directly employed by the foreign consignee or end-user.

To use ITAR § 126.18, effective procedures must be in place to prevent diversion to any destination, entity, or for purposes other than those authorized by the applicable export license or other authorization. Those conditions can be met by requiring a security clearance approved by the host nation government for its employees, or by the end-user or consignee having in place a process to screen all its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. ITAR § 126.18(c)(2) also provides that the technology security/clearance plans and screening records shall be made available to DDTC or its

agents for civil and criminal law enforcement purposes upon request.

Methodology

When information kept on file pursuant to this recordkeeping requirement is required to be sent to the Directorate of Defense Trade Controls, it may be sent electronically or by mail according to guidance given by DDTC.

Michael J. Vaccaro,

Deputy Assistant Secretary, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2026–06212 Filed 3–30–26; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 12980]

30-Day Notice of Proposed Information Collection: Request To Change End-User, End-Use and/or Destination of Hardware and Open General Licenses

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, Directorate of Defense Trade Controls who may be reached on 202–992–0973 or at *battistaal@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request to Change End-User, End-Use and/or Destination of Hardware and Open General Licenses.
- *OMB Control Number:* 1405–0173.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Directorate of Defense Trade Controls (DDTC).
- *Form Number:* DS–6004.
- *Respondents:* Individuals, businesses, or organizations engaged in the business of exporting or temporarily importing defense articles or defense services or those involved with reexport or retransfer of unclassified defense articles otherwise authorized under the International Traffic in Arms Regulations (ITAR).
- *Estimated Number of Respondents:* 1,695.
- *Estimated Number of Responses:* 2,234.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 2,234 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

This information collection is used for two main purposes: (1) the collection and submission of information required for DDTC approval of a reexport or retransfer; and (2) the collection and retention of certain information for authorizations and other approvals, including for reexports and retransfers under an Open General License (OGL) program. Under § 123.9(a) of the ITAR, unless an exemption applies, DDTC's written approval must be obtained before reselling, transferring, reexporting, retransferring, transshipping, or disposing of a defense article to any end-user, end-use, or destination other than as stated on the export license or in the Electronic Export Information filing in cases where an exemption was claimed. Such approval is normally granted through case-by-case review of requests to authorize specific transfers. In addition, ITAR § 120.22(b) allows DDTC to provide export authorization for DDTC's own initiatives, including pilot programs and other specifically anticipated circumstances for which DDTC considers special authorizations appropriate. DDTC has launched a pilot program pursuant to its authorities in ITAR § 120.22(b) in order to assess the concept of an OGL mechanism by which it may authorize certain transfers of defense articles to predetermined parties. OGLs eliminate the need for the Department to individually review and approve certain lower-risk transactions involving certain recipients. DDTC believes the OGL program will provide unprecedented flexibility for the U.S. defense industry and U.S. allies to operate consistent with the ITAR and will enhance their ability to maintain, repair, and store defense articles.

Under ITAR § 123.1(c), DDTC may require pertinent documentation regarding the proposed transaction and proper completion of the application form, including information about the quantity and value of the defense article proposed for export and information on the proposed end-user, end-use, and ultimate destination. Under ITAR § 123.9(c), persons who seek approval from DDTC to reexport or retransfer defense articles are required to submit a description, quantity, and value of the defense article and a description and identification of the new end-user, end-use, and destination. Under ITAR § 120.15(e) any person engaging in any reexport or retransfer of a defense article pursuant to an exemption must maintain records of each such transfer including the following information: A description of the defense article, including technical data, or defense service; the name and address of the end-user and other available contact information (*e.g.,* telephone number and email address); the name of the natural person responsible for the transaction; the stated end-use of the defense article or defense service; the date of the transaction; the Electronic Export Information Internal Transaction Number; and the method of transmission.

DDTC seeks to ensure that persons who rely on any current or future OGLs to conduct reexports and retransfers abroad retain the same records as would be required if their transactions were authorized by either a specific license or an exemption. Accordingly, DDTC has restated the record-keeping

requirements articulated in ITAR § 120.15(e) in the OGLs themselves.

Methodology

Respondents will submit information as attachments to relevant license applications or requests for other approval. Applicants are referred to ITAR § 123.9 for guidance on what information to submit regarding the request to change end-user, end-use and/or destination of hardware. This information may be submitted electronically via a DS–6004, Reexport/Retransfer Application, through DDTC's case management system, the Defense Export Control and Compliance System (DECCS).

Separately, as described in ITAR § 120.15(e) and under the OGL pilot program and as described in each OGL, respondents will be required to retain certain information in their own records for a period of five years from the date of the reexport or retransfer.

Michael J. Vaccaro,

Deputy Assistant Secretary, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2026–06209 Filed 3–30–26; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 12979]

30-Day Notice of Proposed Information Collection: Request for Commodity Jurisdiction Determination

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to April 30, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, who may be reached at *battistaal@state.gov* or 202–992–0973.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request for Commodity Jurisdiction Determination Form.
- *OMB Control Number:* 1405–0163.
- *Type of Request:* Renewal of a Currently Approved Collection.
- *Originating Office:* Directorate of Defense Trade Controls (PM/DDTC).
- *Form Number:* DS–4076.
- *Respondents:* Any person requesting a commodity jurisdiction determination.
- *Estimated Number of Respondents:* 300.
- *Estimated Number of Responses:* 300.
- *Average Time per Response:* 4 hours.
- *Total Estimated Burden Time:* 1,200 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Pursuant to ITAR § 120.4, the commodity jurisdiction procedure may be used to request the Department's Directorate of Defense Trade Controls to provide a determination of whether a particular article or service is covered by the U.S. Munitions List (USML). Form DS–4076 is the means by which respondents may submit this request. Information submitted via Form DS–4076 will be shared with other U.S. Government (USG) agencies, as needed, during the CJ determination review process. Determinations will be made on a case-by-case basis based on the commodity's form, fit, function, performance capability, and design history.

Responses to Public Comments

The Department published a notice in the **Federal Register** (91 FR 1852, Jan. 15, 2026) soliciting public comments for 60 days and multiple substantively equivalent comments were submitted, each asserting:

(1) The existing CJ form prevents members of the public from submitting a CJ without permission from the manufacturer,

(2) This prevents concerned citizens from notifying DDTC when they believe defense articles are being exported without USG authorization, and

(3) The CJ form should be altered to allow submissions for this purpose, even if returned without action, to enable USG notification without automatic returns without action.

However, the CJ process is not the correct tool for members of the public to notify the Department of suspected ITAR violations. The Department welcomes tips regarding suspected violations, including potential exports of defense articles, provision of defense services, or the manufacturing of defense articles in the United States by entities that are not registered with DDTC. Tips may be submitted by emailing *DDTCCustomerService@state.gov* or by phoning (202) 663–2838 from 8 a.m. to 5 p.m. ET. Reports should include as much detail as possible (who, what, when, where, why, and how) and should indicate whether the Department can contact the submitter for additional information. The Department treats tips confidentially. Likewise, the Department will not discuss its response to a tip (including the status of any subsequent compliance reviews) with the submitter.

The Department notes that anyone may file a CJ, including those who are not registered with DDTC, and every case that is returned without action is reviewed by multiple personnel who assess whether the request could be processed following specific updates by the filer.

In general, the Department does limit CJ filings to the original equipment manufacturer (OEM) or authorized representatives. The OEM is normally best positioned to provide relevant information essential to the adjudication process, including information about development history and past sales. When an OEM is unresponsive or

unavailable, a CJ request may be submitted with a letter explaining why an authorization letter from the OEM is not available. The Department determines all returns without action on a case-by-case basis, including whether a CJ application without an OEM authorization letter can be processed.

Details on each of these topics are also available on DDTC's website:

''How to Submit a Tip''

''Who can submit a CJ?''

''What if the original equipment manufacturer (OEM) no longer exists or will not give authorization for a CJ request?''

Methodology

Respondents must generally submit the DS–4076 electronically through DDTC's electronic system. Respondents may access the DS–4076 on DDTC's website, *www.pmddtc.state.gov,* under ''Commodity Jurisdictions (CJs).'' Respondents who are unable to access DDTC's website may mail a signed DS–4076, along with a brief cover letter explaining their inability to file the electronic DS–4076, to the Office of Defense Trade Controls Policy, Department of State, 2401 E St. NW, Suite H1304, Washington, DC 20522.

Michael J. Vaccaro,

Deputy Assistant Secretary, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2026–06211 Filed 3–30–26; 8:45 am]

BILLING CODE 4710–25–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Publication of 2026 Tariff-Rate Quota Quantitative Limits Under the United States-Australia Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: In accordance with the United States-Australia Free Trade Agreement entered into by the United States and the Commonwealth of Australia, the Office of the United States Trade Representative is providing notice of tariff-rate quota quantitative limits of certain tariff subheadings for calendar year 2026.

DATES: The changes made by this notice are applicable as of January 1, 2026.

FOR FURTHER INFORMATION CONTACT: Sarah Elizabeth Fasano, Office of Agricultural Affairs, (202) 395–9491 or *Sarah.E.Fasano@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 201 of the United States-Australia Free Trade Agreement Implementation Act (Pub. L. 108–286; 118 Stat. 919) (19 U.S.C. 3805 note), Presidential Proclamation 7857 of December 20, 2004, and subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States (HTSUS), the attached Annex provides the quantitative limits in 2026 of originating goods of Australia entering the United States under certain subheadings.

Joan Hurst,

Acting AUSTR for Agricultural Affairs and Commodity Policy, Office of the United States Trade Representative.

Annex

Effective with respect to originating goods of Australia, entered under the terms of general note 28 to the Harmonized Tariff Schedule of the United States (HTSUS) and under subchapter XXII of chapter 98, on or after January 1, 2026, and through the close of December 31, 2026:

1. For purposes of subdivision (a) of U.S. note 8 to subchapter XXII of chapter 98 of the HTSUS and in accordance with paragraph 4(b) of Section C of Annex 3–A to Chapter 3 of the United States-Australia Free Trade Agreement (Price-Based Safeguard for Beef), the aggregate quantity of originating goods of Australia is 71,695 metric tons for calendar year 2026.

2. For purposes of U.S. note 9 to subchapter XXII of chapter 98 of the HTSUS, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.05 shall not exceed 25,497,000 liters for calendar year 2026.

3. For purposes of U.S. note 10 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.10 shall not exceed 2,790 metric tons for calendar year 2026.

4. For purposes of U.S. note 11 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.15 shall not exceed 186 metric tons for calendar year 2026.

5. For purposes of U.S. note 12 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.20 shall not exceed 9,115 metric tons for calendar year 2026.

6. For purposes of U.S. note 13 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.25 shall not exceed 5,099 metric tons for calendar year 2026.

7. For purposes of U.S. note 14 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.30 shall not exceed 10,199 metric tons for calendar year 2026.

8. For purposes of U.S. note 15 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.35 shall not exceed 9,751 metric tons for calendar year 2026.

9. For purposes of U.S. note 16 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.40 shall not exceed 5,572 metric tons for calendar year 2026.

10. For purposes of U.S. note 17 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.45 shall not exceed 1,395 metric tons for calendar year 2026.

11. For purposes of U.S. note 18 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.50 shall not exceed 930 metric tons for calendar year 2026.

12. For purposes of U.S. note 19 to subchapter XXII of chapter 98 of the Harmonized Tariff Schedule of the United States, the aggregate quantity of originating goods of Australia entered under subheading 9822.04.65 shall not exceed 1,393 metric tons for calendar year 2026.

[FR Doc. 2026–06207 Filed 3–30–26; 8:45 am]

BILLING CODE 3390–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2025–1149]

Notice of Petition for Special Approval of Alternative Standard

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that IS Technology Solutions (IS Tech) petitioned FRA for special approval of an alternative standard concerning single car air brake tests.

DATES: FRA must receive comments on the petition by April 30, 2026. FRA will consider comments received after that date to the extent practicable.

ADDRESSES:

Comments: Comments related to this docket may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket

number. All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Derrick Griffith, Railroad Safety Specialist, FRA Motive Power & Equipment Division, telephone: 202–493–6322, email: *derrick.griffith@dot.gov.*

SUPPLEMENTARY INFORMATION: Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter received December 22, 2026, IS Tech petitioned FRA for special approval of an alternative standard for certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238 (Passenger Equipment Safety Standards). FRA assigned the petition Docket Number FRA–2025–1149.

Specifically, IS Tech seeks special approval to use an automatic signal car testing device (ASCTD) in lieu of a manual single car testing device (MSCTD) as an alternate standard for compliance with § 238.311, *Single car test.* Further, IS Tech proposes an annual calibration of the ASCTD instead of calibration every 92 days of the MSCTD.

In its petition, IS Tech states that ASCTDs have been used for ''several years as a faster and more accurate alternative'' to MSCTDs. IS Tech explains that the subject device has additional hardware, functionalities, and programming for testing of passenger cars but is based on the AAR S–4027 specification for testing of freight cars.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by April 30, 2026 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,Chief Safety Officer.

[FR Doc. 2026–06198 Filed 3–30–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Departmental Offices Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 30, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Departmental Offices (DO)

1. Title: Quarterly Dealer Agenda Survey.

OMB Control Number: 1505–0261.

Type of Request: Extension without change of a currently approved collection.

Description: The Department of Treasury (Treasury), Office of Debt Management (ODM) conducts the Primary Dealer Meeting Agenda (Agenda), which is a quarterly survey sent to all primary dealers, of which there are currently 23 financial institutions. Primary dealers are trading counter parties of the Federal Reserve Bank of New York (FRBNY) in its implementation of monetary policy. Primary dealers are also expected to have a substantial presence as a market maker for Treasury securities and bid on a pro-rata basis in all Treasury auctions.

The information in the Agenda is a critical factor to inform ODM's decision to set the securities' issuance sizes for the upcoming quarter. In effect, the information provides a market view of borrowing needs for the U.S. government. In addition, aggregate statistics are made public through Treasury's Quarterly Refunding materials.

Form: Primary Dealer Meeting Agenda.

Affected Public: Primary dealers of Treasury securities.

Estimated Number of Respondents: 26.

Frequency of Response: Quarterly.

Estimated Total Number of Annual Responses: 104.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 208.

2. Title: Emergency Rental Assistance Program (ERA2).

OMB Control Number: 1505–0270.

Type of Request: Extension without change of a currently approved collection.

Description: On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (the ''Act''), Pub. L.

117–2. Title III, Subtitle B, Section 3201of the Act provides $21.55 billion for the U.S. Department of the Treasury (Treasury) to make payments to States (defined to include the District of Columbia), U.S. Territories (Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), and certain local governments with more than 200,000 residents (collectively the ''eligible grantees'') to provide financial assistance and housing stability services to eligible households, and cover the costs for other affordable rental housing and eviction prevention activities for eligible households. ERA2 grantees are required to submit reports on their utilization of ERA2 award funds electronically via Treasury's Portal. These information collections permit Treasury to effectively monitor the ERA2 grantees' compliance with the requirements of the ERA2 award terms. The ERA2 Final Quarterly Reports were due to be submitted by all grantees no later than January 28, 2026. After the official submissions of the ERA2 Final Quarterly Reports, Treasury and others will use the information collection forms for on-going compliance monitoring purposes, such as case-by-case reviews and follow-up with individual grantees, and for standard recordkeeping.

Form: None.

Affected Public: State, Local, and Territorial Government recipients of ERA2 awards including those that either fail to submit timely ERA2 Final Quarterly Reports or who are requested to resubmit reports for corrections or additional information.

Estimated Number of Respondents: 70.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 70.

Estimated Time per Response: Five hours per respondent (on average).

Estimated Total Annual Burden Hours: 350 hours.

3. Title: Treasury International Capital (TIC) Forms CQ–1 and CQ–2.

OMB Control Number: 1505–0024.

Type of Request: Extension without change of a currently approved collection.

Description: Forms CQ–1 and CQ–2 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Forms CQ–1 and CQ–2 are quarterly reports filed by non-financial enterprises in the U.S. to report their international portfolio transactions with unaffiliated foreign residents. This information is used by the U.S. Government in the formulation of international financial and monetary policies and for the preparation of the U.S. balance of payments accounts and the U.S. international investment position.

Forms: Treasury International Capital (TIC) Forms CQ–1 and CQ–2.

Affected Public: U.S. resident nonfinancial enterprises, nonprofit institutions, and other specified U.S. persons.

Estimated Number of Respondents: 111.

Frequency of Response: Quarterly.

Estimated Total Number of Annual Responses: 444.

Estimated Time per Response: 6.7 hours (on average).

Estimated Total Annual Burden Hours: 2,975 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–06191 Filed 3–30–26; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Information Collection Requirements in Connection With the Imposition of Special Measures

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 30, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

Title: Information Collection Requirements in Connection with the Imposition of Special Measures (31 CFR 1010.653, 1010.659, 1010.660, 1010.661, and 1010.663).

OMB Control Number: 1506–0036, 1506–0071, 1506–0072, 1506–0074, 1506–0079.

Type of Review: Extension without change of a currently approved collection.

Description: FinCEN is issuing this notice to renew OMB control numbers for regulations imposing special measures against certain entities of primary money laundering concern pursuant to the authority contained in 31 U.S.C. 5318A. *See* 31 CFR 1010.653, 31 CFR 1010.659, 31 CFR 1010.660, 31 CFR 1010.661, and 31 CFR 1010.663.

Form: None.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Estimated Number of Potential Respondents: 15,710 covered financial institutions.

Estimated Number of Expected Respondents: 127 covered financial institutions.

Frequency of Response: As required.

Estimated Average Annual Burden per Respondent: 19 minutes (approximately 0.32 hours).

Estimated Total Annual Burden Hours Per Subject of 311:

OMB control No.	Subject of 311	Number of expected respondents	Average total annual burden hours [a]
1506–0079	Al-Huda Bank	127	14.82
1506–0074	Iran	6.35	

OMB control No.	Subject of 311	Number of expected respondents	Average total annual burden hours [a]
1506–0072	Bank of Dandong	6.35	
1506–0071	North Korea	6.35	
1506–0036	Commercial Bank of Syria	6.35	
Total PRA Burden Hours			40.22

[a] Values are calculated using the three-year average estimate of annual burden hours per respondent multiplied by the number of expected respondents, rounded to nearest hundredth hour. *See* FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request: Renewal Without Change of Information Collection Requirements In Connection With the Imposition of a Special Measure,* 90 FR 57279 (Dec. 10, 2025)—Table 4.

Estimated Total Annual Burden Hours: 40 hours, on average.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–06192 Filed 3–30–26; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 30, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. Title: Application for Extension of Time for Payment of Tax Due to Undue Hardship.

OMB Control Number: 1545–2131.

Type of Request: Extension without change of a currently approved collection.

Description: Internal Revenue Code Section 6161 allows individual and business taxpayers to request an extension of time for payment of tax shown or required to be shown on a return or for a tax due on a notice of deficiency. Form 1127 must be filed with supporting documentation to approve an extension, providing evidence that the taxpayer would sustain a substantial financial loss if forced to pay the tax or deficiency on the due date.

Form Number: Form 1127.

Affected Public: Business or other for-profit organizations, Individuals and households.

Estimated Number of Respondents: 20.

Estimated Time per Response: 7 hours, 26 minutes.

Estimated Total Annual Burden Hours: 149.

2. Title: Provisional Foreign Tax Credit Agreement.

OMB Control Number: 1545–2296.

Type of Request: Extension without change of a currently approved collection.

Description: Internal Revenue Code (IRC) Sections 901 and 905 allow a taxpayer to claim a foreign tax credit for foreign income taxes paid or accrued in a taxable year, depending on taxpayer's method of accounting for such taxes. However, regardless of the year in which the credit is allowed based on taxpayer's method of accounting, the foreign tax credit is allowed only to the extent the foreign income taxes are ultimately both owed and actually remitted to the foreign country. For accrual method taxpayers, IRC Section 461(f) (flush language), Section 1.461–2(a)(2)(i), and section 1.905–1(d)(3) provide that a foreign income tax liability that is contested does not accrue and is not creditable until the contest is resolved. For cash method taxpayers, a foreign income tax liability that is contested is not a reasonable approximation of the taxpayer's final foreign income tax liability and, thus, under section 1.901–2(e)(2)(i), is not considered an amount of tax paid for purposes of section 901 until the contest is resolved. However, sections 1.905–1(c)(3) and 1.905–1(d)(4) allow taxpayers to make an election to claim a provisional foreign tax credit for a contested foreign income tax liability to the extent that the taxpayer has remitted the contested tax to the foreign country. As a condition for making this election, the taxpayer must enter into a provisional foreign tax credit agreement, in which the taxpayer gives the IRS information regarding the contested foreign income tax liability and agrees to comply with the conditions of the election, including agreeing to not to assert the statute of limitations on assessment as a defense to assessment of taxes and interest by the IRS with respect to the contested tax for a period of three years from the year in which taxpayer notifies the IRS of the resolution of the contest. See section 1.905–1(d)(4)(ii). Form 7204 must be used for elections to claim a provisional credit for contested foreign income taxes as provided in Regulations sections 1.905–1(c)(3) and 1.905–1(d)(4).

Form Number: Form 7204.

Affected Public: Business or other for-profit organizations, Individuals and households.

Estimated Number of Respondents: 11,400.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 22,800.

3. Title: Excise Taxes on Excess Inclusions of REMIC Residual Interests.

OMB Control Number: 1545–1379.

Type of Request: Extension without change of a currently approved collection.

Description: Form 8831 is used by a real estate mortgage investment conduit (REMIC) to figure its excise tax liability

under Code sections 860E(e)(1), 860E(e)(6), and 860E–2(a)(7)(ii). IRS uses the information to determine the correct tax liability of the REMIC.

Form Number: Form 8831.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 31.

Estimated Time per Response: 7 hours, 39 minutes.

Estimated Total Annual Burden Hours: 237.

4. Title: TD 8459 Settlement Funds.

OMB Control Number: 1545–1299.

Type of Request: Extension without change of a currently approved collection.

Description: The Treasury Decision (TD) 8459 prescribes reporting requirements for settlement funds, which are funds established or approved by a governmental authority to resolve or satisfy certain liabilities, such as those involving tort or breach of contract. The final regulation relates to the tax treatment of transfers to these funds, the taxation of income earned by the funds, and the tax treatment of distributions made by the funds.

Regulatory Project Number: TD 8459.

Affected Public: Business or other for-profit organizations; individual or households; not for-profit institutions; State local or tribal governments.

Estimated Number of Respondents: 2,750.

Estimated Time per Response: 1 hour, 17 minutes.

Estimated Total Annual Burden Hours: 3,542.

5. Title: Environmental Taxes.

OMB Control Number: 1545–1361.

Type of Request: Extension without change of a currently approved collection.

Description: The Treasury Decision (TD) 8622 impose reporting and recordkeeping requirements necessary to implement Internal Revenue Code sections 4681 and 4682 relating to the tax on chemicals that deplete the ozone layer and on products containing such chemicals. The regulation affects manufacturers and importers of ozone-depleting chemicals, manufacturers of rigid foam insulation, and importers of products containing or manufactured with ozone-depleting chemicals manufacture, import, export, sell, or use ODCs. In addition, the regulation affects persons, other than manufacturers and importers of ozone-depleting chemicals, holding such chemicals for sale or for use in further manufacture on January 1, 1990, and on subsequent tax-increase dates. This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilant or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The rules affect persons, other than manufacturers and importers of ozone-depleting chemicals, holding such chemicals for sale or for use in further manufacture on January 1, 1990, and on subsequent tax-increase dates. This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as a medical sterilant or propellants in metered-dose inhalers, and floor stocks taxes on ODCs.

Regulatory Project Number: TD 8622.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150,350.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 75,265.

6. Title: Vehicle Loan Interest Statement.

OMB Control Number: 1545–2334.

Type of Request: Extension of a currently approved collection.

Description: IRS Section 6050AA requires information reporting with respect to interest received on a specified passenger vehicle loan. Recipients of this interest are required to file an information return to the IRS and furnish a statement to individuals who pay or accrue the interest during a calendar year. The reporting requirements of section 6050AA allow the IRS to verify recipients' compliance with the information reporting rules and to verify that individuals deduct the proper amount of interest on their tax return.

Form Number: Form 1098–VLI.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 8,000,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,000,000.

7. Title: Application to Participate in the IRS Federal/State E-File Program.

OMB Control Number: 1545–NEW.

Type of Request: New collection.

Description: Form 15693 will be used to apply to be an authorized e-file provider within the Federal State E-file Program. A State, Local, or Territorial government will complete Form 15693 to participate in the e-Service program. The form is also used to update an application and manage Agency delegates.

Affected Public: State, Local or Tribal governments.

Estimated Number of Respondents: 5.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 5.

8. Title: Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions Under Section 401(m) and Guidance Under Section 110 of the SECURE 2.0 Act with Respect to Matching Contributions Made on Account of Qualified Student Loan Payments Amounts.

OMB Control Number: 1545–1669.

Type of Request: Reinstatement with change.

Description: The collections of information contained in TD 9169 are required by the Internal Revenue Service (IRS) to comply with requirements of sections 401(k)(12)(D) and 401(m)(11)(A)(ii) regarding notices that must be provided to eligible participants to apprise them of their rights and obligations under certain plans. This information will be used by participants to determine whether to participate in the plan, and by the IRS to confirm that the plan complies with applicable qualification requirements to avoid adverse tax consequences.

The information required by § 1.401(k)–2(b)(3) will be used by employees to file their income tax returns and by the IRS to assess the correct amount of tax. The information provided under § 1.401(k)–1(d)(3)(iii)(C) will also be used by employers in determining whether to make hardship distributions to participants.

For Notice 2024–63, the information is required for payments on qualified education loans to be QSLPs upon which an employer may make matching contributions. Plan sponsors will use the collected information to process claims for QSLP matches for employees in the plan.

Regulatory Project Number: TD 9169 and Notice 2024–63.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions; State, Local or Tribal governments.

Estimated Number of Respondents: 475,000.

Estimated Time per Response: 28 minutes.

Estimated Total Annual Burden Hours: 221,125.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–06189 Filed 3–30–26; 8:45 am]

BILLING CODE 4831–GV–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on April 16, 2026 on ''Pricing the Future: China's Ambitions for Commodities Derivative Markets.''

DATES: The hearing is scheduled for Thursday, April 16, 2026 at 9:30 a.m.

ADDRESSES: Members of the public will be able to attend in person at or near the U.S. Capitol and adjacent Congressional office buildings (specific building and room number to be announced) or view a live webcast via the Commission's website at *www.uscc.gov. Visit the Commission's website for updates to the hearing location or possible changes to the hearing schedule. Reservations are not required to view the hearing online or in person.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *jcunningham@uscc.gov. Reservations are not required to attend the hearing.*

ADA Accessibility: For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Background: This is the fourth public hearing the Commission will hold during its 2026 reporting cycle. The hearing will examine China's efforts to enhance its pricing power in global commodities trade by establishing domestic futures exchanges for agricultural goods, energy and oil products, base metals, and critical minerals. The hearing will begin with an overview of China's motivations and progress to date in establishing commodities derivatives markets and examine some of the regulatory and market implications for the United States. Then, the hearing will proceed with deep dives into sectors where China has established futures contracts and examine the extent to which these contracts are impacting price discovery and commodities flows globally.

The hearing will be co-chaired by Commissioner Livia Shmavonian and Commissioner Taylor Budowich. Any interested party may file a written statement by April 16, 2026 by transmitting it to the contact above. A portion of the hearing will include a question and answer period between the Commissioners and the witnesses.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: March 27, 2026.

Christopher P. Fioravante,

Deputy Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2026–06228 Filed 3–30–26; 8:45 am]

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Part II

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2550

Fiduciary Duties in Selecting Designated Investment Alternatives; Proposed Rule

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

RIN 1210–AC38

Fiduciary Duties in Selecting Designated Investment Alternatives

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This document contains a proposed regulation that clarifies, and provides a safe harbor for, a fiduciary's duty of prudence under the Employee Retirement Income Security Act of 1974 (ERISA) in connection with selecting designated investment alternatives for a participant-directed individual account plan, including asset allocation funds that include alternative assets. This proposal implements section 3(c) of President Trump's Executive Order 14330, *Democratizing Access to Alternative Assets for 401(k) Investors.*

DATES: Comments are due on or before June 1, 2026.

ADDRESSES: You may submit comments, identified by RIN 1210–AC38, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail or Personal Delivery:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: All submissions received must include the agency name and Regulation Identifier Number (RIN) for this rulemaking. Comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa*, and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210. Persons submitting comments electronically are encouraged not to submit paper copies. We encourage commenters to include supporting facts, research, and evidence in their comments. When doing so, commenters are encouraged to provide citations to the published materials referenced, including active hyperlinks. Likewise, commenters who reference materials which have not been published are encouraged to upload relevant data collection instruments, data sets, and detailed findings as a part of their comment. Providing such citations and documentation will assist us in analyzing the comments.

Warning: Do not include any personally identifiable or confidential business information that you do not want publicly disclosed. Comments are public records posted on the internet as received and can be retrieved by most internet search engines.

Docket: Go to the Federal eRulemaking Portal at *https://www.regulations.gov* for access to the rulemaking docket, including the plain-language summary of the proposed rule of not more than 100 words in length required by the Providing Accountability Through Transparency Act of 2023.

FOR FURTHER INFORMATION CONTACT: Fred Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration, Department of Labor, at 202–693–8513. This is not a toll-free number.

Customer service information: Individuals interested in obtaining general information from the Department of Labor concerning Title I of ERISA may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department's website (*www.dol.gov/agencies/*ebsa).

SUPPLEMENTARY INFORMATION:

1. Executive Summary

This document contains a proposed regulation that clarifies, and provides a safe harbor for, a fiduciary's duty of prudence under the Employee Retirement Income Security Act of 1974 (ERISA) in connection with the selection of designated investment alternatives for a participant-directed individual account plan, including asset allocation funds that include investments in alternative assets.

The overarching goal of the proposed regulation is to alleviate certain regulatory burdens and litigation risk that interfere with the ability of American workers to achieve, through their retirement accounts, the competitive returns and asset diversification necessary to secure a dignified and comfortable retirement. This goal can be achieved only by clarifying that ERISA gives fiduciaries (not opportunistic trial lawyers) the discretion and flexibility to determine when designated investment alternatives, including those that contain alternative investments, offer the opportunity for participants to maximize risk-adjusted returns on their retirement assets net of fees.

In support of this overarching goal, three key principles form the bedrock of the proposed regulation. First, there is a need to affirm ERISA as a law grounded in process. Second, ERISA gives maximum discretion and flexibility to plan fiduciaries in selecting designated investment alternatives, including the alternative investments described in Executive Order 14330, titled *Democratizing Access to Alternative Assets for 401(k) Investors.*[1] Third, when ERISA fiduciary decision-making follows a prudent process—such as the process reflected in the proposed regulation—arbiters of disputes should defer to fiduciaries under a presumption of prudence.

2. Background

2.1. The Duty of Prudence Under Section 404(a)(1)(B) of ERISA

ERISA's fiduciary responsibilities are in Part 4 of Title I of ERISA. Most pertinent to this rulemaking, ERISA's duty of prudence is found in section 404(a)(1)(B) of ERISA. This section, in relevant part, states: ''a fiduciary shall discharge his duties with respect to a plan . . . with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.''

2.2. 1979 Investment Duties Regulation

Today's proposed regulation is not the first Department regulation to address the application of the duty of prudence to fiduciaries of ERISA-covered plans. In 1979, the Department published a regulation on this topic, titled Investment Duties (hereinafter 1979 Investment Duties Regulation).[2]

The 1979 Investment Duties Regulation, in relevant part, provides that ERISA's duty of prudence is satisfied by a plan fiduciary when selecting an investment if the fiduciary meets two conditions. First, the fiduciary must give ''appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment . . . including the role the investment or investment course of action plays in that portion of the plan's investment portfolio or menu with respect to which the fiduciary has investment duties.'' [3]

[1] E.O. 14330 (Aug. 7, 2025), reprinted in 90 FR 38921 (Aug. 12, 2025).

[2] 29 CFR 2550.404a–1.

[3] 29 CFR 2550.404a–1(b)(1)(i).

And second, the fiduciary must have ''acted accordingly.'' [4]

While the 1979 Investment Duties Regulation does not define ''acted accordingly,'' it does clarify that ''appropriate consideration'' shall include, ''but is not necessarily limited to'' certain factors depending on the type of plan.[5] That regulation makes clear that the fiduciary of any plan must take ''into consideration the risk of loss and the opportunity for gain (or other return) associated with the investment or investment course of action compared to the opportunity for gain (or other return) associated with reasonably available alternatives with similar risks[.]'' [6] In addition, it explains that under certain circumstances the fiduciary also must specifically consider diversification, liquidity and current return of the portfolio relative to the anticipated cash flow requirements of the plan, and projected return of the portfolio relative to the funding objectives of the plan.[7]

As explained further below, today's proposed regulation supplements and expands on the 1979 Investment Duties Regulation in the context of selecting designated investment alternatives for participant-directed individual account plans. It does this, first, by identifying six relevant factors, and second, by demonstrating what it means for a fiduciary to ''act accordingly''—and therefore to be prudent—in the circumstances addressed in the examples. Nothing in today's proposed regulation is intended to disturb the 1979 Investment Duties Regulation.[8]

2.3. Relevant Historical Departmental Subregulatory Guidance

On several occasions since the 1979 Investment Duties Regulation, the Department has provided supplementary guidance addressing and identifying appropriate relevant factors with respect to types of investments or investment strategies.

2.3.1. Mortgage Loans to Participants as Investments

In Advisory Opinion 81–12A (Jan. 15, 1981), the Department considered whether a defined benefit plan's fiduciary could offer mortgage loans to plan participants and beneficiaries (a form of plan investment) consistent with its duty of prudence.[9] The Department recognized that ''ERISA's federalized prudence requirement, although based upon the common law of trusts, does depart from traditional trust law in some respects.'' The Department stated that it ''interprets section 404 as providing *greater flexibility,* in the making of investment decisions by plan fiduciaries, than might have been provided under pre-ERISA common and statutory law in many jurisdictions.'' [10] After discussing the list of factors in the 1979 Investment Duties Regulation, the Department considered several additional specific factors the requester deemed relevant to a fiduciary's consideration of the possible mortgage financing program and agreed that those factors could be appropriately considered by plan fiduciaries in their investment deliberations, along with and in relation to the list of factors in the 1979 Investment Duties Regulation.

2.3.2. Derivatives Contracts as Investments

In an Information Letter to Eugene Ludwig dated March 21, 1996, the Department considered whether a defined benefit plan fiduciary could invest in derivatives, such as futures, options, options on futures, forward contracts, swaps, structured notes and collateralized mortgage obligations, consistent with the duty of prudence.[11] Speaking to ERISA's neutrality on investments, the letter clarifies that plan fiduciaries are required to engage in the same general procedures and undertake the same type of analysis that they would in making any other investment decision, focusing on factors such as: how the investment fits within the plan's investment policy, what role the particular derivative plays in the plan's portfolio, and the plan's potential exposure to losses.

Additionally, the Information Letter clarifies that investments in certain derivatives, such as structured notes and collateralized mortgage obligations, may require a higher degree of sophistication and understanding on the part of plan fiduciaries than other investments, and that plan fiduciaries with the authority for investing in derivatives are responsible for securing sufficient information to understand the investment prior to making the investment, including information regarding the associated market risks. Finally, with respect to such investments, the letter clarifies that the duty of prudence requires plan fiduciaries to determine the appropriate methodology to be used for evaluating market risk and the information that must be collected to do so, which, among other things, would include, where appropriate, stress simulation models showing the projected performance of the derivatives and of the plan's portfolio under various market conditions.

2.3.3. Liability Driven Investment Strategy

In Advisory Opinion 2006–08A (Oct. 3, 2006), the Department considered whether a fiduciary of a defined benefit plan may, consistent with the requirements of section 404 of ERISA, consider the liability obligations of the plan and the risks associated with such liability obligations in determining a prudent investment strategy for the

[4] 29 CFR 2550.404a–1(b)(1)(ii).

[5] 29 CFR 2550.404a–1(b)(2).

[6] *Id.* The 1979 Investment Duties Regulation states that the term ''appropriate consideration'' shall include, ''but is not necessarily limited to'' a ''determination by the fiduciary that the particular investment or investment course of action is reasonably designed, as part of the portfolio (or, where applicable, that portion of the plan portfolio with respect to which the fiduciary has investment duties) or menu, to further the purposes of the plan, taking into consideration the risk of loss and the opportunity for gain (or other return) associated with the investment or investment course of action compared to the opportunity for gain (or other return) associated with reasonably available alternatives with similar risks[.]'' *Id.*

[7] 29 CFR 2550.404a–1(b)(2)(ii). In a 2022 rulemaking, in response to commenters' confusion about the application of the term ''portfolio,'' as used in the 1979 Investment Duties Regulation, to construction of a participant-directed individual account plan's investment menu, the Department agreed that certain factors in paragraph (b) of the 1979 Investment Duties Regulation, such as ''the composition of the portfolio with regard to diversification,'' do not apply to menu construction for such a plan. *See* 87 FR 73822, 73828 (Dec. 1, 2022). In explaining the 1979 Investment Duties Regulation's focus on ''portfolio,'' the Department noted that the practice followed by some jurisdictions at common law of judging the prudence of an investment alone without regard to the role that the investment plays within the overall investment portfolio would not be improper for evaluating the prudence of an investment or investment course of action under ERISA. 43 FR 17480, 17481 (Apr. 25, 1978).

[8] The safe harbor with respect to ERISA's prudence requirement in paragraph (b) of the Investment Duties Regulation, as well as the guidance with respect to ERISA's loyalty requirement in paragraph (c) of that Regulation, would not be affected by this proposal. The Department also notes that its most recently published Regulatory Agenda includes a regulatory project related to revision of the 1979 Investment Duties Regulation.

[9] U.S. Dep't of Labor, Employee Benefits Security Admin., Advisory Opinion 81–12A (Jan. 15, 1981), available at *https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/advisory-opinions/1981-12a.pdf.*

[10] *Id.* at 1 (emphasis added). The existing standard to which ERISA provides greater flexibility was already quite discretionary. *See, e.g.,* Restatement (Second) of Trusts § 187 (1959) (''Where discretion is conferred upon the trustee with respect to the exercise of a power, its exercise is not subject to control by the court, except to prevent an abuse by the trustee of his discretion.'').

[11] U.S. Dep't of Labor, Employee Benefits Security Admin., Information Letter to Eugene Ludwig (Mar. 21, 1996), available at *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/03-21-1996.*

plan.[12] The plan fiduciary proposed to ''risk manage'' the assets of defined benefit plans by better matching the risks of a plan's investment portfolio assets with the risks associated with its benefit liabilities, with a goal toward reducing the likelihood that liabilities will rise at a time when the assets decline. The Department concluded that nothing in the statute or the 1979 Investment Duties Regulation limits a plan fiduciary's ability to take into account the risks associated with benefit liabilities or how those risks relate to the portfolio management in designing an investment strategy. In reaching that conclusion, the Department observed that, within the framework of ERISA's prudence, exclusive purpose, and diversification requirements, plan fiduciaries have *broad discretion* in defining investment strategies appropriate to their plans.

Although Advisory Opinion 2006–08A dealt with defined benefit plans and today's proposed regulation applies to defined contribution plans, which do not have the same sort of benefit liabilities, the controlling concept in the advisory opinion still applies, meaning that a plan fiduciary has broad discretion to consider how to reduce volatility in plan investments when participants are most likely to need their benefits for retirement. Indeed, target date funds, which most defined contribution plans offer,[13] explicitly attempt to manage volatility as participants near the age when they will need to draw down their money in retirement.

2.3.4. Asset Allocation Fund With Private Equity Component

In an Information Letter to Jon W. Breyfogle, Esq., dated June 3, 2020, the Department considered whether plan fiduciaries of individual account plans could include designated investment alternatives with private equity components in individual account plans consistent with their duty of prudence.[14] The Department concluded that a fiduciary would not violate its duties under sections 403 and 404 of ERISA solely because the fiduciary offers a professionally managed asset allocation fund with a private equity component as a designated investment alternative for an ERISA-covered individual account plan in the manner described in the letter.

Citing the 1979 Investment Duties Regulation, the Information Letter stated that in evaluating a particular investment alternative for consideration as a designated investment alternative, the fiduciary must engage in an objective, thorough, and analytical process that considers all relevant facts and circumstances and then act accordingly. The letter identified complexity (of both organizational structures and investment strategies), time horizons, performance (risks and benefits) net of fees, fees, valuation, regulatory oversight, diversification, and liquidity as relevant factors. The Department further noted that the plan fiduciary should consider whether it has the skills, knowledge, and experience to make these determinations or whether it needs to seek assistance from a qualified investment adviser or other investment professional to make these determinations.

In so doing, though, the Department was careful not to weigh in on whether ''a particular fund or investment alternative'' is permitted or forbidden for a plan, because the appropriateness of any given investment option for a particular plan ''is an inherently factual question'' that depends on numerous ''relevant facts and circumstances'' that must be considered by a fiduciary through ''an objective, thorough, and analytical process.''

On December 21, 2021, the Department issued a supplemental statement on private equity investments which cautioned fiduciaries against selection of a designated investment alternative with a private equity component for a typical 401(k) plan, absent the plan fiduciary having experience evaluating private equity investments for a defined benefit pension plan. The Department subsequently rescinded the supplemental statement on August 12, 2025, because the statement deviated from the Department's historically neutral and principles-based approach to fiduciary investment decisions creating a potentially costly chilling effect on the market.[15]

2.3.5. Lifetime Income Product as a Qualified Default Investment Alternative

In Advisory Opinion 2025–04A, the Department considered whether a program, involving investment management services and guaranteed lifetime withdrawal benefits offered through a variable annuity contract, met the requirements to be a ''qualified default investment alternative'' (QDIA) in an individual account plan. In concluding that the program as described in the opinion satisfied the requirements to be a QDIA under 29 CFR 2550.404c–5(e), the Department noted that whether a plan fiduciary has satisfied the duty of prudence in selecting a lifetime income program, or any other investment alternative, as a QDIA for any particular plan would depend on the facts and circumstances in that particular case.[16]

2.4. Case Law

The fiduciary duty of prudence under section 404(a)(1)(B) of ERISA has been examined in a number of court cases, as discussed below. These cases also have informed the development of the Department's proposal.

2.4.1. Duty of Prudence Applies to Selection of Designated Investment Alternatives

Under section 404(a)(1)(B) of ERISA, plan fiduciaries must discharge their duties ''with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.'' 29 U.S.C. 1104(a)(1)(B). This duty of prudence applies to plan fiduciaries in selecting and monitoring the designated investment alternatives in an individual account plan. *See Tibble* v. *Edison Int'l,* 575 U.S. 523, 529 (2015).

2.4.2. Duty of Prudence Focuses on Process at the Time of the Decision

The defining characteristic of the duty of prudence is that it is ''largely a process-based inquiry.'' *Smith* v. *CommonSpirit Health,* 37 F.4th 1160, 1166 (6th Cir. 2022); *see also Matousek*

[12] U.S. Dep't of Labor, Employee Benefits Security Admin., Advisory Opinion 2006–08A (Oct. 3, 2006), available at *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2006-08a.*

[13] In 2022, EBSA analysis of BrightScope data for audited retirement plans found 91 percent of 401(k) plans offered at least one TDF.

[14] U.S. Dep't of Labor, Employee Benefits Security Admin., Information Letter to Jon W. Breyfogle (June 3, 2020), available at *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020.*

[15] U.S. Dep't of Labor, *US Department of Labor Rescinds 2021 Supplemental Statement on Alternative Assets in 401(k) Plans* (Aug. 12, 2025), *https://www.dol.gov/newsroom/releases/ebsa/ebsa20250812* (rescinding U.S. Dep't of Labor, *U.S. Department of Labor Supplement Statement on Private Equity in Defined Contribution Plan Designated Investment Alternatives* (Dec. 21, 2021), *www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020-supplemental-statement.*

[16] *See also* U.S. Dep't of Labor, Employee Benefits Security Admin., Information Letter to Christopher Spence (Dec. 22, 2016), available at *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/12-22-2016;* U.S. Dep't of Labor, Employee Benefits Security Admin., Information Letter to J. Mark Iwry (Oct. 23, 2014), available at *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/12-22-2016.*

v. *MidAmerican Energy Co.,* 51 F.4th 274, 278 (8th Cir. 2022) (noting that for the duty of prudence, ''[t]he process is what ultimately matters''). Thus, prudence is assessed based on a fiduciary's investigation at the time of the investment decision, and not in hindsight based on the investment results. *See, e.g., Sacerdote* v. *N.Y. Univ.,* 9 F.4th 95, 107 (2d Cir. 2021) (stating that courts ''must judge a fiduciary's actions based upon information available to the fiduciary at the time of each investment decision and not from the vantage point of hindsight'' (internal quotations omitted)); *Harris* v. *Amgen, Inc.,* 788 F.3d 916, 936 (9th Cir. 2015) (''[T]he proper question'' in evaluating an ERISA claim ''is not whether the investment results were unfavorable, but whether the fiduciary used appropriate methods to investigate the merits of the transaction.'' (internal citation and quotations omitted)), *rev'd and remanded on other grounds,* 577 U.S. 308 (2016); *PBGC ex rel. Saint Vincent Cath. Med. Ctrs. Ret. Plan* v. *Morgan Stanley Inv. Mgmt. Inc.,* 712 F.3d 705, 716 (2d Cir. 2013) (focusing ''on a fiduciary's conduct in arriving at an investment decision, not on its results'' (citation omitted)); *DiFelice* v. *U.S. Airways, Inc.,* 497 F.3d 410, 424 (4th Cir. 2007) (''[W]hether a fiduciary's actions are prudent cannot be measured in hindsight . . . [T]he prudent person standard is not concerned with results; rather it is *a test of how the fiduciary acted* viewed from the perspective of the time of the challenged decision.'' (emphasis added) (internal citations and quotations omitted); *In re Unisys Sav. Plan Litig.,* 74 F.3d 420, 434 (3d Cir. 1996) (stating that the duty of prudence focuses on ''a fiduciary's *conduct in arriving at an investment decision,* not on its results, and asking whether a fiduciary employed *the appropriate methods* to investigate and determine the merits of a particular investment'' (emphasis added)). In short, this duty ''requires prudence, not prescience.'' *DeBruyne* v. *Equitable Life Assur. Soc'y of U.S.,* 920 F.2d 457, 465 (7th Cir. 1990) (internal citation omitted); *see also Reetz* v. *Aon Hewitt Inv. Consulting, Inc.,* 74 F.4th 171, 182 (4th Cir. 2023) (''Prudence does not mean clairvoyance.'').

2.4.3. The Duty of Prudence Does Not Contain Categorical Restrictions on Investments

The same principles of prudence apply to any investment decision, regardless of the nature of the investment. For example, in *Anderson* v. *Intel Corp. Investment Policy Committee,* 137 F.4th 1015 (9th Cir. 2025), cert. granted, No. 25–498 (Jan. 16, 2026), the court's dismissal of the plaintiff's claim suggested that a fiduciary's inclusion of investments in hedge funds and private equity funds, as part of a diversified target date fund, was not inconsistent with prudence because the plan followed a prudent process in determining that the use of the products as part of the plan's risk reduction strategy with long-term conservative growth goals was appropriate. *Id.* at1024. *See also Carlisle* v. *Teamsters Board of Trustees,* No. 25–511-cv, 2025 WL 3251154, at *3 (2d Cir. Nov. 21, 2025) (dismissing fiduciary breach claim based on a theory that private market investments are imprudent because allegations did not indicate that fiduciaries did more than engage in the normal practice of weighing ''tradeoffs'' and selecting from a ''range of reasonable judgments'' in the circumstances). Similarly, in *Taylor* v. *United Technologies Corp.,* the court rejected the argument that actively managed funds (*i.e.,* funds with portfolio managers that pick and choose investments in pursuit of the fund's performance objectives) were necessarily imprudent simply because some evidence tended to show that passively managed funds (also referred to as index funds because such funds seek to track the returns of a market index) generally outperformed actively managed funds. No. 3:06CV1494, 2009 WL 535779 (D. Conn. Mar. 3, 2009), *aff'd,* 354 F. App'x 525 (2d Cir. 2009).

It is not surprising that ERISA contains no categorical restrictions on investment type. When Congress enacted ERISA, it did not require employers to establish benefit plans. Rather it crafted a statute intended to encourage employers to offer benefit plans while also protecting the benefits promised to employees. *See, e.g., Conkright* v. *Frommert,* 559 U.S. 506, 516 (2010); *see also* H.R. Rep. No. 93–533 at 9 (1973), reprinted in 1974 U.S.C.C.A.N. 4639, 4647 (noting that ERISA ''represents an effort to strike an appropriate balance between the interests of employers and labor organizations in maintaining flexibility in the design and operation of their pension programs, and the need of the workers for a level of protection which will adequately protect their rights and just expectations'').[17]

Indeed, Congress knew that if it adopted a system that was too ''complex,'' then ''administrative costs, or litigation expenses, [would] unduly discourage employers from offering . . . benefit plans in the first place.'' *Varity Corp.* v. *Howe,* 516 U.S. 489, 497 (1996). Congress also knew that plan sponsors and fiduciaries must make a range of decisions and accommodate ''competing considerations,'' often during periods of considerable market uncertainty. H.R. Rep. No. 96–869, at 67 (1980), reprinted in 1980 U.S.C.C.A.N. 2918, 2935. As a result, Congress designed a statutory scheme that affords plan sponsors and fiduciaries considerable flexibility.[18]

2.4.4. Decisions Based on a Prudent Process Are Entitled to Significant Deference Including Under the Proposed Regulation's Safe Harbor Factors

Assessing the duty of prudence is naturally deferential and context specific, reflecting a fiduciary's discretion and flexibility in selecting among a range of options. *See Donovan* v. *Cunningham,* 716 F.2d 1455, 1467 (5th Cir.1983) (stating that the prudence requirement is ''a flexible standard,'' such that the adequacy of a fiduciary's independent investigation and ultimate investment selection is evaluated in light of the '''character and aims' of the particular type of plan he serves''); *Vigeant* v. *Meek,* 953 F.3d 1022, 1028 (8th Cir. 2020) (same). In other words, under a prudence inquiry, there is no one single right answer given the almost innumerable appropriate options available to fiduciaries. *Chao* v. *Merino,* 452 F.3d 174, 182 (2d Cir. 2006) (ERISA does not require a fiduciary to take ''any particular course of action'' so long as the fiduciary's decision meets the prudent person standard). Therefore, the Supreme Court has instructed the courts to ''give due regard to the range of reasonable judgments a fiduciary may make based on her experience and expertise,'' as ''the circumstances facing

[17] In fact, when Congress considered requiring plans to offer at least one index fund on plan menus, the proposal failed. *See* H.R. 3185, 110th Congress (2007). And the Department concurred and continues to concur with that decision. 401(k) Fee Disclosure: Helping Workers Save for Retirement: Hearing Before the S. Comm. On Health, Education, Labor, and Pensions, 110th Cong. 15 (2008) (statement of Bradford P. Campbell, Assistant Sec'y of Labor) (''Requiring specific investment options would limit the ability of employers and workers together to design plans that best serve their mutual needs in a changing marketplace.'').

[18] This flexibility extends to other areas of ERISA fiduciary decision making that are not discussed, in detail, in this proposed regulation. For example, plan fiduciaries of participant-directed individual account plans have discretion to make decisions, often involving ''difficult tradeoffs,'' *Hughes* v. *Northwestern University,* 595 U.S. 170, 177 (2022), when considering, the size of plan investment menus, investment styles, the structure of investment options, and default investment options for plan participants who have not made a decision about how to allocate their individual investment accounts.

an ERISA fiduciary will implicate difficult tradeoffs.'' *Hughes* v. *Northwestern University,* 595 U.S. 170, 177 (2022). And, as discussed above, a fiduciary must act based on ''the circumstances as they reasonably appear to [the fiduciary] at the time when he does act and not at some subsequent time when his conduct is called into question.'' *Smith* v. *CommonSpirit Health,* 37 F.4th 1160, 1164 (6th Cir. 2022) (quoting Restatement (Second) of Trust section 174 cmt. B (1959)). In other words, subjecting a fiduciary to constant Monday morning quarterbacking over its decisions, with the benefit of 20/20 hindsight, would eviscerate the discretion that is at the core of the statutory framework.

In an action alleging a breach of fiduciary duty, as in other forms of litigation, the Supreme Court's default rules apply meaning plaintiffs bear the burden of proof and persuasion on the elements of their claim. *Schaffer ex rel. Schaffer* v. *Weast,* 546 U.S. 49, 58 (2005) (''[P]laintiffs bear the burden of persuasion regarding the essential aspects of their claims''). This is true not just with respect to the existence of a breach (as relevant here, whether a fiduciary failed to follow a prudent process) but also, in the view of the Department, and some courts, with regard to whether the alleged breach caused a loss to the plan. *See, e.g., Pizarro* v. *Home Depot,* 111 F.4th 1165 (11th Cir. 2024); *Pioneer Ctrs. Holding Co. Emp. Stock Ownership Plan & Trust* v. *Alerus Fin., N.A.,* 858 F.3d 1324, 1336 (10th Cir. 2017) (rejecting burden-shifting as to causation of loss), *petition for cert. dismissed,* 585 U.S. 1056 (2018). Consequently, a defendant fiduciary that complies with the proposed regulation's safe harbor factors should, to that extent, be confident that it has fulfilled its fiduciary duty of prudence. And given where the burden lies, a fiduciary that can actively demonstrate that compliance should be able to confidently rely on it to successfully defend its actions.

Some courts have even suggested that, under an extension of *Firestone Tire & Rubber Co.* v. *Bruch,* 489 U.S. 101 (1989), fiduciaries should receive deference for their investment determinations or other decisions (in addition to the decisions regarding benefit claims that were at issue in *Firestone*), if they are exercising discretion in interpreting and applying plan terms. For example, in *Tussey* v. *ABB, Inc.,* 746 F.3d 327 (8th Cir. 2014), the Eighth Circuit found that there is ''no compelling reason to limit *Firestone* deference to benefit claims,'' and thus held that the district court should have applied a ''deferential standard of review in evaluating whether the [plan] fiduciaries, at the time they made their investment decisions, breached their fiduciary duties in . . . . . evaluating and selecting Plan investment options in accordance with the Plan,'' and the investment policy statement. *Id.* at 335, 338; *see also Armstrong* v. *LaSalle Bank Nat. Ass'n,* 446 F.3d 728, 733 (7th Cir. 2006) (finding that the standard of review for ''a decision that involves a balancing of competing interests under conditions of uncertainty,'' such as an ESOP redemption price valuation, is abuse of discretion); *Hunter* v. *Caliber Sys., Inc.,* 220 F.3d 702, 711 (6th Cir. 2000) (finding ''no barrier to application of the arbitrary and capricious standard in a case such as this not involving a typical review of denial of benefits,'' but rather interpretation of a plan term regarding lump sum payments).

To further assist plan fiduciaries, the Department is proposing this regulation with safe harbors. The Department has clear statutory authority under ERISA section 505 to promulgate safe harbors, including safe harbors regarding the fiduciary duty of prudence (such as, for example, the selection of annuity providers under 29 CFR 2550.404a–4). *Cf. McNeil* v. *Time Ins. Co.,* 205 F.3d 179, 190 (5th Cir. 2000) (''ERISA's section 505 granted the Secretary of Labor the authority to promulgate regulations for implementation of ERISA, and the Secretary has created an exemption for certain group or group-type insurance programs from the scope of ERISA.'' (citations and footnotes omitted)).

The Departmental explication of a prudent process is entitled to *Skidmore* deference (*Skidmore* v. *Swift & Co.,* 323 U.S. 134 (1944)) as persuasive authority regarding what constitutes a prudent process. *Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369 (2024). *Loper-Bright* cites *Skidmore* with approval. *Id.* at 402. Other courts have adhered to this principle. *See, e.g., Lopez* v. *Garland,* 116 F.4th 1032, 1039 (9th Cir. 2024) (agency interpretation entitled to due respect when well-reasoned). And while the Fifth Circuit has questioned the continuing role of *Skidmore, see Mayfield* v. *United States Dep't of Labor,* 117 F.4th 611, 619 (5th Cir. 2024), the Fifth Circuit implied that to the extent *Skidmore* has weight, it is when the Department has clear statutory authority and has exercised it consistently. Here, the Department has promulgated safe harbors regarding a prudent process in the past (*e.g.,* selection of annuity providers), and the prudent process described herein is consistent with both the balance of existing caselaw and past Departmental practice. Accordingly, this regulation should carry persuasive weight to courts under *Skidmore* such that fiduciaries that comply with the regulation should be found to have followed a prudent process with the result that their judgment with regard to the particular factor at issue (including the relationship of that factor to the other factors) is respected.

3. Executive Order 14330

3.1. Section 3(c)

On August 7, 2025, President Trump issued Executive Order E.O. 14330, *Democratizing Access to Alternative Assets for 401(k) Investors.*[19] The Executive Order (E.O. 14330) pointed out that, currently, many Americans in employer-sponsored defined contribution plans do not have the opportunity to participate in the potential growth and diversification opportunities offered by alternative asset investments. E.O. 14330 cited regulatory burdens and litigation risk as factors that may impede access to these investments. E.O. 14330 stated it is the policy of the United States that ''every American preparing for retirement should have access to funds that include investments in alternative assets when the relevant plan fiduciary determines that such access provides an appropriate opportunity for plan participants and beneficiaries to enhance the net risk-adjusted returns on their retirement assets.''

E.O. 14330 contains a definition of alternative assets which includes the following:

- private market investments, including direct and indirect interests in equity, debt, or other financial instruments that are not traded on public exchanges, including those where the managers of such investments, if applicable, seek to take an active role in the management of such companies;
- direct and indirect interests in real estate, including debt instruments secured by direct or indirect interests in real estate;
- holdings in actively managed investment vehicles that are investing in digital assets;
- direct and indirect investments in commodities;
- direct and indirect interests in projects financing infrastructure development; and
- lifetime income investment strategies including longevity risk-sharing pools.

Alternative assets are highly varied, as the executive order demonstrates, and

[19] 90 FR 38921 (August 12, 2025).

alternatives include nearly all investments other than those typically considered to be ''traditional'' asset classes—*i.e.,* publicly-traded stocks, bonds and cash. Alternative assets sometimes are less liquid and harder to value than traditional asset classes, and the fee structures for alternative investments are often more sophisticated and performance-driven than for traditional investments.

For example, private market investments are often set up as partnerships in which a general partner manages money on behalf of limited partners, with a 10-year commitment before the limited partners expect to see a return of their capital and any profits. These private investment structures can help limited partners diversify their portfolios, but such diversification sometimes comes with reduced day-to-day insight into the value of their investments than investments in traditional assets. These partnerships may also use private debt, which generally refers to direct lending to private entities, often with customized structures to meet the specific needs of the borrower or other financial investments.

Real estate may include land, buildings, or natural resources such as timberland and farms. No two properties are the same, and valuation must take this into account in contrast to market-traded stocks or bonds.

Digital assets are a new form of investing that includes a wide variety of assets that can be stored and transmitted digitally, including cryptocurrencies such as Bitcoin and other tokens.

Commodities, ranging from metals to corn, do not generate any cash, but allow investors to benefit from price increases or to hedge other investments. Commodity investments are often operationalized with derivatives (contracts based on the price of an underlying asset) to avoid the actual cost of storing physical commodities.

Infrastructure investments include everything from water treatment plants to airports to highways and may be considered a type of real estate investment.

Lifetime income investment strategies are designed to provide individuals with a predictable stream of income for their lives, and have sometimes been referred to as a form of monthly paycheck during retirement. A typical example of a lifetime income solution is an annuity. The Department has also added guidance on lifetime income longevity-sharing pools, which are a risk-sharing mechanism that can incorporate many investment strategies, rather than itself constituting an alternative asset.

Section 3(c) of E.O. 14330 directed the Department to propose regulations or other guidance, including appropriately calibrated safe harbors, that clarify the ERISA fiduciary duties owed to plan participants when asset allocation funds with investments in alternative assets are made available as investment options.[20] In carrying out E.O. 14330's directives, the Department is to prioritize approaches that are designed to curb litigation risk that may constrain fiduciaries from applying their best judgment in offering investment opportunities to plan participants.[21]

3.2. Application of Executive Order 14330 to Selection of Designated Investment Alternatives

Although E.O. 14330 directed the Department to focus guidance on fiduciary responsibilities in connection with offering an asset allocation fund that includes investments in alternative assets, the Department has decided not to limit the proposed rule to such funds. While the proposed regulation does provide the exact guidance contemplated by E.O. 14330, providing guidance *only* with respect to those asset allocation funds that invest in alternative assets could create the impression that those asset allocation funds are either favored or disfavored. They are not. They are subject to the same requirements as any other investment. This is consistent with the Department's historical practice of providing neutral guidance that does not favor or disfavor any particular type of investment or investment strategy. The Department therefore has decided to address in this proposal ERISA's fiduciary duty of prudence with respect to the selection of any designated investment alternative, as discussed in more detail below. That said, the Department expects that by focusing on the factors and examples—often in the context of the selection of alternative assets—described more below, the Department has fully addressed E.O. 14330, showing how a good fiduciary process can justify and support the discretionary investment decisions of plan fiduciaries, including when they choose to select asset allocation funds that contain alternative assets.

4. Detailed Discussion of the Proposed Regulation

4.1. Scope—Proposed Paragraphs (a) and (b)

The scope of this proposed regulation is delineated in paragraphs (a) and (b). These provisions collectively limit the proposed regulation's applicability to ERISA's duty of prudence, specifically as it pertains to a plan fiduciary's selection of a designated investment alternative within a participant-directed individual account plan.

Paragraph (a) of the proposed regulation recites the duty of prudence as set forth in the statute. In relevant part, it provides that a fiduciary shall discharge its duties with respect to the plan with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Paragraph (b) of the proposed regulation sets forth the Department's longstanding position that the selection of a designated investment alternative for a participant-directed individual account plan is a fiduciary act.[22] Paragraph (b) also clarifies that such a selection is governed by ERISA's duty of prudence as set forth in paragraph (a) of the proposed regulation. As described in detail in section 11 of this preamble, the term ''designated investment alternative'' refers generally to the investment options on the plan's menu chosen by a plan fiduciary and available to participants and beneficiaries for investment of their retirement benefits.

The proposed regulation does not address ERISA's well-established duty for fiduciaries to monitor designated investment options at regular intervals after their selection. In *Hughes* v. *Northwestern University,*[23] the Supreme Court unanimously affirmed that ERISA fiduciaries have a continuing obligation to monitor all plan investments—not just a subset—and to remove options that the fiduciary determines, after a rigorous process, are no longer appropriate. The Court clarified that offering a broad menu of investment

[20] Consistent with paragraph (d) of section 3 of the Executive Order, the Department consulted with the Department of the Treasury, the staff of the Securities and Exchange Commission (the ''SEC''), and the Pension Benefit Guaranty Corporation in developing this proposed regulation.

[21] The Executive Order also directed the Department to reexamine its existing guidance regarding ERISA fiduciary duties owed to plan participants when making available asset allocation funds with alternative assets, and consider rescinding the December 21, 2021, Supplemental Private Equity Statement, discussed above.

[22] *See, e.g.,* Employee Benefits Security Administration, Fiduciary Requirements for Disclosure in Participant-Directed Individual Account Plans, (codified at 29 CFR 2550.404a-5(f)) (''Nothing herein is intended to relieve a fiduciary from its duty to prudently select and monitor providers of services to the plan or designated investment alternatives offered under the plan.'').

[23] *Hughes* v. *Nw. Univ.,* 595 U.S. 170, 176 (2022).

choices does not excuse fiduciaries from breaches if some options are poorly managed. The Department anticipates issuing interpretive guidance in the near term concerning fiduciary obligations under ERISA to monitor designated investment alternatives following their inclusion on a plan's investment menu. The Department generally is of the view that the factors and processes (or substantially similar factors and processes) outlined in the proposed regulation—including the illustrative safe harbor examples—apply to this ongoing duty. Put differently, a plan fiduciary that tracks the process in the proposed regulation during appropriately established monitoring cycles will meet ERISA's monitoring requirements. Accordingly, the Department invites commenters, particularly those with expertise in portfolio monitoring and menu maintenance, and fiduciary standards, to provide input on best practices in this area.

4.2. Fiduciaries Have Maximum Discretion to Select Investments to Further the Purposes of the Plan—Proposed Paragraph (c)

Paragraph (c) of the proposed regulation addresses the question of whether any designated investment alternative is *per se* prudent or imprudent under section 404(a)(1)(B) of ERISA. The text of section 404(a)(1)(B) of ERISA is plainly neutral to types or classes of designated investment alternatives that a fiduciary selects for the plan menu, so long as the fiduciary's selection process adheres to section 404(a)(1)(B)'s articulated standard of care.[24] Thus, plan fiduciaries have maximum discretion to select investments to further the purposes of the plan. Paragraph (c) of the proposed regulation adopts this foundational principle, providing, in relevant part, that section 404(a)(1)(B) of ERISA ''does not require or restrict any specific type of designated investment alternative.'' [25] However, the investment discretion ERISA confers on plan fiduciaries is not a license to ignore other applicable laws. Paragraph (c) of the proposed regulation reflects this basic principle by clarifying that maximum discretion notwithstanding, a plan fiduciary is prohibited from selecting a designated investment alternative that is otherwise illegal. For example, as paragraph (c) of the proposed regulation clarifies, an investment in a foreign adversary which violates the Specially Designated Nationals and Blocked Persons List administered by the Office of Foreign Assets Control of the United States Department of the Treasury is not permitted.[26]

4.3. Fiduciaries Have a Duty To Act Prudently When Establishing a Plan Investment Menu to Maximize Risk-Adjusted Returns—Proposed Paragraph (d)

Paragraph (d) of the proposed regulation provides that a fiduciary with responsibility or authority for selecting designated investment alternatives has a duty to act prudently also when establishing a diversified menu of designated investment alternatives to further the purposes of the plan by enabling participants and beneficiaries in such plans to maximize risk-adjusted returns on investment, net of fees, across their entire portfolio. This in turn allows participants with different risk capacities to maximize their returns for a given level of risk. This provision is intended to serve as an important reminder that each designated investment alternative selected by a plan fiduciary plays a role in the larger investment menu and the fiduciary has a duty to prudently curate the menu of investments overall.[27] Put differently, ERISA's duty of prudence applies not just to the selection of each designated investment alternative but also to the collection of designated investment alternatives as a whole—*i.e.,* to both the individual parts and the sum.

While, as explained in the scope discussion above, the focus of the proposed regulation is on the application of the duty of prudence to a fiduciary's selection of an individual designated investment alternative for a plan's menu, the proposed regulation does not address the question of how to prudently curate a menu of investments overall. This question is beyond the scope of this proposed regulation. In this regard, the Department understands that, to obtain the fiduciary relief available under section 404(c) of ERISA, many participant-directed individual account plans establish menus that seek to comply with the requirements of regulations implementing section 404(c) of ERISA.[28] These regulations, which are optional, generally require the menu to offer a broad range of investment alternatives that meets specified diversification and risk and return requirements.[29] Comments are solicited on whether future guidance should address the question of what process is required to curate a prudent menu of investments overall or whether the requirements of the regulations implementing section 404(c) continue to be best practice.

4.4. Prudence Requires Appropriate Consideration of All Relevant Factors—Proposed Paragraph (e)

Paragraph (e) of the proposed regulation sets forth the general standard of what prudence requires when selecting a designated investment alternative. In relevant part, it provides that to satisfy the duty of prudence when selecting a designated investment alternative, the plan fiduciary must follow a prudent process under which it gives appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment responsibility or authority, the fiduciary knows or should know are relevant to the particular designated investment alternative. This provision mirrors language in paragraph (b)(1) of the 1979 Investment Duties Regulation. Paragraph (e) of the proposed regulation does not, however, contain the ''and act accordingly'' language that is in

[24] *See* Uniform Prudent Investor Act § 2(e) (Nat'l Conference of Comm'rs on Unif. State Laws 1995) (clarifying ''that no particular kind of property or type of investment is inherently imprudent''); *see also* Restatement (Third) of Trusts § 90, comment f(2) (Am. L. Inst. 2007).

[25] Paragraph (c) also makes clear, for example, that there is no *per se* rule respecting the inclusion of actively managed investment vehicles that are investing in digital assets. In this regard, the Department recently announced a return to its historically neutral position with respect to particular investment types and strategies which neither endorses, nor disapproves of, plan fiduciaries that conclude that the inclusion of cryptocurrency in a plan's investment menu is appropriate. See U.S. Dep't of Labor, Employee Benefits Security Admin., Compliance Assistance Release 2025–01, *401(k) Plan Investments in ''Cryptocurrencies''* (May 28, 2025), *https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/compliance-assistance-releases/2025-01.* The Compliance Assistance Release rescinded previous guidance issued by the Department in 2022 that directed plan fiduciaries to exercise ''extreme care before they consider adding a cryptocurrency option to a 401(k) plan's investment menu for plan participants.''

[26] *See also* U.S. Dep't of Labor, Employee Benefits Security Admin., Advisory Opinion 25–01A (July 21, 2025) (ERISA does not shield fiduciaries from the application of the civil rights laws), *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2025-01a.*

[27] 29 CFR 2550.404a–1(b)(1) (stating that the duty of prudence is satisfied if the fiduciary has given ''appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including *the role the investment or investment course of action plays in that portion of the plan's investment portfolio or menu with respect to which the fiduciary has investment duties*[ ] and . . . [h]as acted accordingly'' (emphasis added)).).

[28] 29 CFR 2550.404c–1. A plan fiduciary is not liable for the direct consequences of the investment decisions of plan participants if the fiduciary ensures compliance with this regulation.

[29] *Id.* at (b)(3).

paragraph (b)(1)(ii) of the Investment Duties Regulation. In lieu of the ''and act accordingly'' language, paragraphs (g) through (*l*) of the proposed regulation set forth six relevant factors and safe harbor examples demonstrating what it means for a fiduciary to ''act accordingly''—and therefore to be prudent—in the circumstances addressed in the examples. Thus, the proposed regulation supplements and expands on the Investment Duties Regulation in the context of selecting designated investment alternatives for participant-directed individual account plans, especially with respect to the six enumerated factors and related safe harbor examples. Further, like many safe harbor examples in the proposed regulation, paragraph (e) of the proposed regulation reinforces the idea that it also may be appropriate for the named fiduciary to enlist the services of professional advisors, to carry out the necessary objective, thorough, and analytical analysis.

Importantly, paragraph (e) of the proposed regulation makes clear that nothing in the proposed regulation excuses a fiduciary from complying with its obligations to act loyally or avoid prohibited conflicts of interest under sections 404(a)(1)(A) or 406 of ERISA respectively. Those are separate requirements, not impacted by the proposed regulation. For the avoidance of doubt, the Department does not intend to relax the loyalty requirement or waive any conflict prohibitions in relation to a fiduciary evaluation of alternative assets.

4.5. Safe Harbor—Paragraph (f)

E.O. 14330 emphasizes that burdensome lawsuits challenging reasonable decisions made by ERISA plan fiduciaries may inhibit fiduciaries' ability to make sound judgments when offering investment opportunities to plan participants and beneficiaries. This, in turn, hinders American workers' ability to achieve competitive and diversified accounts, affecting their chances of securing a comfortable and dignified retirement. Consequently, E.O. 14330 instructs the Department to prioritize efforts in developing rules, regulations, or guidance aimed at reducing such litigation that constrains fiduciaries' ability to apply their best judgment in offering investment opportunities to plan participants and beneficiaries.

Following the issuance of E.O. 14330, several stakeholders submitted letters to the Department. They expressed their support for the E.O. 14330's focus on reducing excessive litigation. The stakeholders noted a significant increase in class-action lawsuits over the past decade and anticipated even more, especially in light of the Supreme Court's decision in *Cunningham* v. *Cornell University.*[30]

The Department is concerned that the prevailing climate of litigation poses significant challenges for plan sponsors and fiduciaries. Indeed, much of this litigation has focused on well-designed plans with prudent processes, with the challenges often ultimately failing, but not before significant resources have been expended in defense. *See, e.g., Mattson* v. *Milliman, Inc.,* No. C22–0037 TSZ, 2024 WL 3024875 (W.D. Wash. June 17, 2024) (disposing of a frivolous case, but only after a bench trial); *Falberg* v. *Goldman Sachs Grp., Inc.,* No. 19 Civ. 9910 (ER), 2022 WL 4280634 (S.D.N.Y. Sept. 14, 2022), *aff'd,* No. 22–2689–CV, 2024 WL 619297 (2d Cir. Feb. 14, 2024) (disposing of a frivolous case, but only after summary judgment).[31] Consistent with E.O. 14330, stakeholders have indicated that this environment deters employers from establishing, maintaining, or enhancing their retirement plans, stifles the adoption of innovative plan features, and constrains the availability of investment alternatives that could improve participant outcomes, including the kind of exposure to alternative assets contemplated by E.O. 14330 and described in many of the examples in the proposed regulations.[32] Ultimately, this situation jeopardizes the long-term retirement security of ERISA plan participants.[33]

Paragraph (f) of the proposed regulation, therefore, introduces a process-based safe harbor for plan fiduciaries to use when selecting designated investment alternatives. By referencing paragraphs (g) through (*l*) of the proposal, paragraph (f) identifies a non-exhaustive list of six factors for a plan fiduciary to objectively, thoroughly, and analytically consider and make determinations about when selecting designated investment alternatives for the plan menu. The six subsequent paragraphs (g) through (*l*) of the proposal detail each of these six factors.

When a plan fiduciary objectively, thoroughly, and analytically considers, and makes a determination following the described process with respect to, any of the six factors outlined in the paragraphs, its judgment regarding the factor or factors is presumed to be reasonable and is entitled to significant deference. In the Department's view, a plan fiduciary that objectively, thoroughly, and analytically considers and makes a determination regarding any or all of the six factors should be able to confidently rely on that determination without undue fear of litigation, much like how plan fiduciaries can rely on the judicial deference the Supreme Court has acknowledged they can receive in the circumstances addressed in *Firestone Tire & Rubber Co.* v. *Bruch.*[34]

While each factor is addressed in detail in the subsequent sections of this preamble, the six factors are as follows: performance, fees, liquidity, valuation, benchmarking, and the complexity of the designated investment alternative. The Department has identified these six factors through a thorough consideration of its experience, a comprehensive review of pertinent case law, existing regulations, previous sub-

[30] Letter from American Retirement Ass'n et al. to Lori Chavez-DeRemer, Sec'y of Labor (Dec. 4, 2025) (alleging that from 2016 through 2024, plaintiffs' attorneys filed more than 500 ERISA ''fee cases,'' and that filings are expected to almost double from 53 new lawsuits in 2024 to an estimated 99 new lawsuits in 2025) *see also* Letter from Am. Benefits Council to Daniel Aronowitz, Assistant Sec'y of Labor for Employee Benefits (Dec. 5, 2025) (citing Thomas R. Kmak, *Protect Yourself at All Times—Emphasize Quality, Service and Value Before Fees,* Nat'l Inst. of Pension Adm'rs, Apr. 11, 2016); *Cunningham* v. *Cornell Univ.,* 604 U.S. 693, 711 (2025) (Alito, J. concurring) (citing CHUBB, Excessive Litigation Over Excessive Plan Fees in 2023 (Apr. 2023)).

[31] These cases rarely include any allegations about process but instead often assert conclusory attacks on the outcome of particular fiduciary decisions and ask courts to infer an imprudent process based on circumstantial, outcome-focused allegations. This approach, as discussed above, is not based in the text or law of ERISA. As discussed by the Department in more detail in its recent amicus brief in *Parker-Hannifin Corp.* v. *Johnson,* petition for cert. filed (6th Cir. Jan. 2, 2024) (24–1030), these inferential claims must be subjected to careful, context-sensitive scrutiny with a purported lack of information about the fiduciary process as no excuse from the rigorous requirements of a well-pleaded complaint.

[32] Am. Ret. Ass'n et al., *supra* note 30; Am. Benefits Council *supra* note 30.

[33] Lawsuits have a ''tremendous power to harass'' individual fiduciaries, *Cunningham* v. *Cornell Univ.,* 2018 WL 1088019, at 1 (S.D.N.Y. Jan. 19, 2018), with courts noting that ERISA fiduciaries often find themselves ''between a rock and a hard place,'' *Fifth Third Bancorp* v. *Dudenhoeffer,* 573 U.S. 409, 424 (2014), or on a ''razor's edge,'' *Armstrong* v. *LaSalle Bank Nat'l Ass'n,* 446 F.3d 728, 733 (7th Cir. 2006), in making reasonable decisions in respect of the investment opportunities they offer to plan participants and beneficiaries.

[34] See *Firestone Tire & Rubber Co.* v. *Bruch,* 489 U.S. 101, 111 (1989), finding in the ERSIA section 502(a)(1)(B) context that ''[t]rust principles make a deferential standard of review appropriate when a trustee exercises discretionary powers'' (citing *Restatement (Second) of Trusts* § 187 (Am. Law. Inst. 1959) (''Where discretion is conferred upon the trustee with respect to the exercise of a power, its exercise is not subject to control by the court except to prevent an abuse by the trustee of his discretion.'')).

regulatory guidance, E.O. 14330, and valuable stakeholder input. The applicability of each factor to a specific designated investment alternative will vary based on the particular facts and circumstances involved. Nonetheless, the Department believes that each of these six factors are integral to the vast majority of designated investment alternatives provided within participant-directed individual account plans.

The Department invites public comments on the comprehensiveness and applicability of the six factors outlined herein, particularly in light of best practices within the participant-directed individual account market and established investment principles. Stakeholders are encouraged to identify any additional factors that could enhance the proposed framework, providing rationale for their inclusion. For instance, several stakeholders have proposed that participant profiles or characteristics warrant consideration, particularly in the context of target date funds or managed accounts as designated investment alternatives. Furthermore, the relevance of participant profiles to lifetime income solutions has also been highlighted, again in the context of target date funds. The Department specifically requests input from commenters on whether participant profiles or characteristics should be included in the final rule as a stand-alone factor, and if it should be applied to all designated investment alternatives or just with respect to target date funds and managed accounts.

5. Performance

5.1. The Standard

Proposed paragraph (g) identifies performance as a factor for fiduciary consideration in selecting a designated investment alternative. The paragraph provides that the fiduciary must appropriately consider a reasonable number of similar investment alternatives and then must determine that the risk-adjusted expected returns of the designated investment alternative, over an appropriate time horizon and net of anticipated fees and expenses, furthers the purposes of the plan by enabling participants and beneficiaries to maximize risk-adjusted return on investment, net of those fees and expenses.

As further illustrated by the examples in paragraphs (g)(1) and (g)(2), discussed below, proposed paragraph (g) makes clear that a fiduciary's consideration of an investment alternative's performance should not focus solely on expected returns. When evaluating performance, fiduciaries must take into account the risks that investors are exposed to with respect to the designated investment alternative (including, among other risks, economic, market, sector, and investment-specific risks and counterparty risks), as well as the risk capacity of the plan's participants.

Proposed paragraph (g) also references an appropriate time horizon. Plan fiduciaries must consider the time horizon of the plan's participants when evaluating performance. Depending on the age of the workforce, retirement savings can often involve a long time horizon. Evaluation of an investment alternative's performance should take into account the participants' likely needs over the course of the anticipated investment.

Finally, paragraph (g) provides that the consideration of an investment alternative's performance also should occur net of anticipated fees and expenses. This presents the fiduciary with the most accurate information about the investment's performance.

In all these areas, plan fiduciaries may wish to work with an investment advice fiduciary (within the meaning of ERISA section 3(21)(A)(ii)) to understand and evaluate the performance of the investment.

5.2. Performance Examples

Proposed paragraph (g)(1) provides an example illustrating a fiduciary's consideration of returns. The example describes a named fiduciary that, after considering the risks of the potential investments and the risk capacity of the plan's participants, selects a target date fund series that has lower expected returns, but lower expected risk, as compared to the similar, alternative target date series considered. The lower risk strategy in the example included alternative assets with low correlations to stocks and bonds, which reduced the volatility of returns. In making the selection, the named fiduciary relied on advice from a third-party investment advice fiduciary within the meaning of ERISA section 3(21)(A)(ii). The example in paragraph (g)(1) illustrates the principle that plan fiduciaries need not select an investment strategy with the highest returns nor aim to achieve the highest possible returns but rather should seek to maximize returns for a given level of appropriate risk, consistent with the participants' likely needs over the course of the anticipated investment.[35]

Proposed paragraph (g)(2) provides an example of a fiduciary's consideration of time horizon. In this example, a named fiduciary considers three target date fund series and selects a target date fund after considering the past 1-, 3-, 5-, and 10-year historical performance data, but relying most heavily on the 10-year data. In doing so, the named fiduciary relied on advice from a third-party investment advice fiduciary within the meaning of ERISA section 3(21)(A)(ii). The example in paragraph (g)(2) confirms that a plan fiduciary need not select an investment with the highest returns during a short period of time or the most recent period of time. An appropriate time horizon for retirement savings may be a long-term horizon due to the long-term nature of retirement savings.[36]

6. Fees

6.1. The Standard

Paragraph (h) of the proposed regulation identifies fees as a factor for fiduciary consideration in selecting designated investment alternatives. It provides that the fiduciary must objectively, thoroughly, and analytically consider a reasonable number of similar alternatives and determine that the fees and expenses of the designated investment alternative are appropriate, taking into account its risk-adjusted expected returns, net of fees and expenses, and any other value the designated investment alternative brings to furthering the purposes of the plan. For this purpose, the term ''value'' includes any benefits, features, or services other than risk-adjusted returns net of fees. Proposed paragraph (h) further provides that section 404(a)(1)(B) of ERISA and paragraph (h) of the proposal are not violated solely because the fiduciary does not select the alternative with the lowest fees and expenses from among the reasonable number of alternatives considered. For example, a prudent fiduciary could choose to pay more in exchange for greater services.

Paragraphs (h)(1) through (5) of the proposed regulation set forth five examples applying the factor in proposed paragraph (h) to different fact patterns. While the fees of an investment alternative are to be assessed

[35] *See Anderson* v. *Intel Corp. Inv. Pol'y Comm.*, 137 F.4th 1015, 1024 (9th Cir. 2025), cert. granted, No. 25–498 (Jan. 16, 2026) (''`ERISA fiduciaries are not required to adopt a riskier strategy simply because that strategy may increase returns.' To the contrary, courts have routinely rejected claims that an ERISA fiduciary can violate the duty of prudence by seeking to minimize risk.'' (citations omitted)).

[36] *See Pizarro* v. *Home Depot,* 111 F.4th 1165, 1179–80 (11th Cir. 2024) (rejecting a claim of failure to prudently monitor investments, stating, ''[a] few here-and-there years of below-median returns, however, are not a meaningful way to evaluate a plan's success as a long-term investment vehicle'').

in relation to expected risk-adjusted returns, net of fees, and any other value the alternative brings to furthering the purposes of the plan, the fees of an investment alternative are also to be judged against the fees of a reasonable number of similar alternatives. Whether alternatives are similar, and what constitutes a reasonable number of them, are questions of fact and dependent on the specific facts and circumstances of each case. However, as the examples make clear, neither paragraph (h) of the proposed regulation nor ERISA's duty of prudence require a fiduciary to compare an investment alternative with every similar alternative available in the market.[37]

6.2. Fee Examples

Paragraph (h)(1) of the proposed regulation provides an example demonstrating that a plan fiduciary is not considered imprudent solely because it selected a designated investment alternative with higher fees than other alternatives that have comparable risk-adjusted returns. Consistent with case law, this example illustrates that the duty of prudence does not include a categorical requirement to always select the alternative with the lowest fees even within a group of alternatives with comparable risk-adjusted return. In this example, the plan fiduciary prudently exemplary customer service as the value proposition of the designated investment alternative with higher fees, compared to the other similar alternatives being considered.

Paragraph (h)(2) of the proposed regulation provides an example that does not demonstrate that the plan fiduciary satisfied section 404(a)(1)(B) of ERISA and paragraph (h) of the proposed regulation. In this example, which involves a highly rated registered investment company with multiple share classes, the plan fiduciary fails to consider the differences in fee structures among the various share classes of the fund and ultimately selects a more expensive share class that is identical in all respects to another available share class with lower fees. Nor did the fiduciary in this example enlist the assistance of professional advisor, manager, or consultant before making the selection. The example concludes the lower-cost share class appears to have a superior value proposition, and a prudent selection process ordinarily would have reflected that.

Paragraph (h)(3) of the proposed regulation provides an example reflecting the value proposition that a lifetime income benefit option can bring to furthering the purposes of the plan in question. In this example, the plan fiduciary implements the plan settlor's decision to add a lifetime income benefit option to the plan. To do so, the plan fiduciary selects a new designated investment alternative: an asset allocation fund offered through a variable annuity contract. This designated investment alternative is similar in all material respects—such as risk, return, liquidity, and allocation profile—to another designated investment alternative already on the plan investment menu, except that the existing designated investment alternative does not offer a lifetime income through a variable annuity contract. The two designated investment alternatives have the same expense ratio, but the new designated investment alternative offered through the variable annuity contract has an additional fee associated with the ability of participants to select the lifetime income feature. In this example, the plan fiduciary consults with an investment advice fiduciary, as defined in section 3(21)(A)(ii) of ERISA, who analyzes the annuity market generally, as well as the break-even ages and additional fee of the new designated investment alternative. The plan fiduciary then critically evaluates this analysis and adopts it in determining that the new alternative provides commensurate value for the fees charged. The example concludes that the fiduciary satisfied the consideration and determination requirement of paragraph (h) and section 404(a)(1)(B) of ERISA in deciding that the additional fee under the variable annuity contract is appropriate in relation to the commensurate value it brings in furthering the purposes of the plan.

Paragraph (h)(4) of the proposed regulation provides an example involving a modification to a custom-designed designated investment alternative that is a qualified default investment alternative (target date fund) made for the purpose of risk mitigation—*i.e.,* decreasing volatility and reducing the risk of large losses during a market downturn. The target date fund's existing strategy of targeting specific percentages of publicly traded stocks and bonds would be modified by including investments in specific percentages of hedge funds and private equity funds while reducing the target percentages of publicly traded stocks and bonds. This change would result in an increase in the target date fund's expense ratio. Additionally, under certain market conditions, the fund might underperform compared to its existing strategy, but the change would provide downside protection as added value. The example indicates that because the change in strategy would so clearly implicate the principal objectives of the target date fund, implementing the modification would be tantamount to the selection of a designated investment alternative subject to the proposal.

In this example, the named fiduciary enlisted the services of an investment advice fiduciary, as defined in ERISA section 3(21)(A)(ii), which provided the named fiduciary with a written report that stochastically modeled estimated risk-adjusted returns stemming from the adoption of the modifications and compared the modified target date fund to a reasonable number of similar alternatives. The named fiduciary considered and determined, within its discretion, that the modification to the target date fund to include the risk mitigation strategy furthered the purposes of the plan, including decreasing volatility and reducing the risk of large losses during a market downturn.[38] Furthermore, the named fiduciary considered and determined, within its discretion, that the higher expense ratio associated with the modification was appropriate in light of the estimated higher risk-adjusted expected returns, net of fees and expenses, over an appropriate horizon for the target date fund. The example concludes that the named fiduciary would satisfy the requirements of proposed paragraph (h) and ERISA section 404(a)(1)(B) with respect to the fees and expenses of the modified target date fund. This is entirely consistent with ERISA's statutory purpose, caselaw, and earlier statements from the Department.[39]

[37] A number of court decisions have indicated that there is no duty to scour the market to find the fund with the lowest fees. *See, e.g., Smith* v. *CommonSpirit Health,* 37 F.4th 1160 (6th Cir. 2022), *Forman* v. *TriHealth, Inc.,* 40 F.4th 443, 449 (6th Cir. 2012), *Hecker* v. *Deere & Co.,* 556 F.3d 575, 586 (7th Cir. 2009).

[38] *See Anderson* v. *Intel Corporation Inv. Policy Comm.,* 137 F.4th 1015, 1024 (9th Cir. 2025), cert. granted, No. 25–498 (Jan. 16, 2026) (noting, in a similar context, that courts have routinely rejected claims that an ERISA fiduciary can violate the duty of prudence by seeking to minimize risk).

[39] *See, e.g.,* S. Rep. No. 92–634, at 21 (1972) (Congress prioritized customization, recognizing it as ''essential to achieve the basic objectives of private pension plans because of the variety of factors which structure and mold the plans to individual and collective needs of different workers, industries, and locations.''); U.S. Dep't of Labor, Employee Benefits Security Admin., *Target Date Retirement Funds—Tips for ERISA Plan Fiduciaries* 3 (Feb. 2013) (expressly noting that while off-the-shelf, or ''pre-packaged,'' TDFs are available—often at a very low fee—''custom'' TDFs crafted specifically for a particular plan, based on

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Paragraph (h)(5) of the proposed regulation provides an example involving active management, increased fees, and greater diversification benefits. In this example, a plan fiduciary enlists the services of an investment advice fiduciary to analyze several small-cap funds, half of which are actively managed and the other half passively managed. The passive funds are comparably priced to each other, and the actively managed funds are comparably priced to each other. However, the actively managed funds all charge higher fees than the passive funds. The plan fiduciary selected the best-performing active fund and the best-performing passive fund as designated investment alternatives. This example illustrates that a plan fiduciary may choose to offer both an actively managed and passive fund within a particular strategy to secure diversification benefits for participants across the plan investment menu. In so doing, the fiduciary may prudently conclude that the value of these diversification benefits justifies the selection of an actively managed fund that charges higher fees than a passive counterpart. This example is consistent with several court decisions that involve the offering of both actively managed and passive plan investment alternatives.[40]

7. Liquidity

7.1. The Standard

Paragraph (i) of the proposed regulation clarifies that a fiduciary must appropriately consider and determine that the designated investment alternative will have sufficient liquidity to meet the anticipated needs of the plan at both the plan and individual levels.[41] Alternative asset investments are often less liquid than the publicly traded stock and bond funds that are held by funds that plan fiduciaries often make available to plan participants. Illiquid investments generally offer an illiquidity premium to investors who are willing to hold their investment, for some time, without selling it for cash. Many retirement savers, particularly younger workers, have long investment time horizons until retirement and, therefore, fit the profile of an investor who can benefit from a liquidity premium.

To achieve the goal of clarifying that ERISA gives fiduciaries the discretion to offer designated investment alternatives that contain illiquid alternative investments, the regulation also provides that plans do not need to offer fully liquid investment options. Nonetheless, plan fiduciaries must ensure that investments can deliver on any promises of liquidity that are made to participants and beneficiaries. Plan fiduciaries should also consider the liquidity needs of their plan and whether other plans' (or other investors') redemptions might adversely affect the liquidity of the designated investment alternative.

7.2. Liquidity Examples

Paragraph (i)(1) of the proposed regulation contains a positive example of how a plan fiduciary may be deemed to have appropriately considered the participant-level liquidity needs of the plan when selecting a designated investment alternative, including one that holds a portion of illiquid, non-publicly traded securities. The example reflects the reality that some participants contribute to their plan knowing they can take hardship withdrawals or loans because their investments offer daily liquidity. Likewise, the example acknowledges that some plans cover workers with high turnover rates, who, pursuant to the plan terms, often roll their money out of the plan upon separation. The example also posits that when plan terms allow frequent trading, some participants avail themselves of this option. In all these cases, despite the decades they have to save before attaining retirement age, plan participants with long time horizons until retirement may nonetheless expect and need daily liquidity.

The example concludes that one approach available to plan fiduciaries is to obtain a written representation from the person responsible for managing the designated investment alternative regarding the designated investment alternative's liquidity risk management program.[42] For a designated investment alternative that is a mutual fund registered as an open-end management investment company with the SEC under the Investment Company Act (a ''mutual fund''), the example notes that mutual funds are required by rule 22e–4 under the Investment Company Act to adopt and implement a written liquidity risk management program that is reasonably designed to assess and manage their liquidity risk.[43] For any designated investment alternative not described in the preceding sentence, such as a collective investment trust, the written representation must express that the designated investment alternative has adopted and implemented a liquidity risk management plan that is substantially similar to a program that meets the requirements of such Act. The example also recognizes that a plan fiduciary may otherwise perform appropriate due diligence regarding the designated investment alternative's liquidity risk management program that would satisfy the safe harbor even in the absence of obtaining a written

the specific needs of the plan, and often composed of investment options already in the plan line-up ''may offer advantages'' that fiduciaries may wish to consider despite the additional ''costs and administrative tasks involved'' in these types of investments); *Anderson* v. *Intel Corporation Inv. Policy Comm.,* 137 F.4th 1015, 1024 (9th Cir. 2025) (noting, consistent with earlier Department positions, ''a fiduciary should act as a prudent investment manager following the principles of modern portfolio theory, which recognizes that while the individual riskiness of a particular investment cannot be eliminated, it can be managed through the diversification of investment assets''); *DiFelice* v. *U.S. Airways, Inc.,* 497 F.3d 410, 423 (4th Cir. 2007) (''[M]odern portfolio theory has been adopted by the investment community and, for the purposes of ERISA, by the Department of Labor.'' (citing 29 CFR 2550.404a–1)); *Laborers Nat'l Pension Fund.* v. *N. Trust Quantitative Advisors, Inc.,* 173 F.3d 313, 322 (5th Cir. 1999) (''Since 1979, investment managers have been held to the standard of prudence of the modern portfolio theory by the Secretary's regulations.'' (citing 29 CFR 2550.404a–1)).

[40] *See, e.g., Smith* v. *CommonSpirit Health,* 37 F. 4th 1160 (6th Cir. 2022); *Davis* v. *Wash. Univ. in St. Louis,* 960 F.3d 478 (8th Cir. 2020).

[41] *See Barchock* v. *CVS Health Corp.,* No. CV 16–061–ML, 2017 WL 1382517, at *4 (D.R.I. Apr. 18, 2017) (holding that a fiduciary satisfied the duty of prudence in selecting a liquidity level aligned with the plan's investment objectives), *aff'd,* 886 F.3d 43 (1st Cir. 2018); *Taylor* v. *United Techs. Corp.,* No. 3:06CV1494, 2009 WL 535779, at *9 (D. Conn. Mar. 3, 2009) (finding that a fiduciary's evaluation and determination of the appropriate level of liquidity for its plan ''satisfie[d] the prudent person standard''), *aff'd,* 354 F. App'x 525 (2d Cir. 2009).

[42] The Department is not prescribing how a fiduciary should evaluate written representations as described in this proposal's examples. The Department believes that important parts of a fiduciary's evaluation under the proposal would include whether the representations are consistent with the terms of the investment alternative's organizational documents and plan's investment agreements, whether those documents or agreements provide a degree of flexibility that effectively cuts back on the matter being represented (*e.g.,* by permitting an investment alternative to suspend investor withdrawal rights established in its organizational documents), and whether the documents or agreements may be amended without the consent of the plan fiduciary. In some instances, a plan fiduciary may need to negotiate a separate agreement to substantiate the matters being represented.

[43] *See* 15 U.S.C. 80a–15(c); SEC Rule 22e–4, 17 CFR 270.22e–4 (''liquidity risk management programs''), applies to certain investment funds registered with the SEC (generally registered open-end management investment companies) and establishes a regulatory framework intended to reduce the risk that a fund will be unable to meet its redemption obligations and minimize dilution of shareholder interests by promoting stronger and more effective liquidity risk management across funds. It requires funds to establish liquidity risk management programs, which are required to include multiple elements, including: assessment, management, and periodic review of a fund's liquidity risk; classification of the liquidity of fund portfolio investments; determination of a highly liquid investment minimum; limitation on illiquid investments; and board oversight.

representation for designated investment alternatives that are not mutual funds. The conclusion in this example depends on the plan fiduciary reading and critically reviewing any written representation (independently or with assistance of a qualified investment professional if necessary) and not knowing (or having reason to know) other information which would cause the fiduciary to question any written representation.

In developing this example, the Department understands that participant-level liquidity needs of plans are highly variable, ultimately depending on factors such as the type of plan at issue, its features, and the overall profile of the participants and beneficiaries of the plan as a whole. That variability notwithstanding, the outcome in this example illustrates a deliberative process under which the plan fiduciary assures itself that the designated investment alternative has adopted and implemented a program such that the designated investment alternative is likely to be able to meet the liquidity expectations of the participants and beneficiaries, even in cases when the plan promises participants daily liquidity and the designated investment alternative holds assets it cannot easily sell.

Paragraph (i)(2) of the proposed regulation contains a positive example of how a plan fiduciary may be deemed to have appropriately considered the participant-level liquidity needs of the plan when selecting as a designated investment alternative a guaranteed deferred annuity contract that contains substantial restrictions on liquidity at the participant level. The example illustrates that the mechanics of the annuity in the contract at issue are such that monthly participant contributions purchase increments of deferred income with payments for life beginning when the participant reaches age 65. These monthly contributions are fully committed (*i.e.,* not liquid) after 90 days, and any immediate withdrawals by the participant before age 65 would result in a penalty and a market value adjustment to the value of the annuity that begins at age 65.

This example concludes that the plan fiduciary in question would satisfy the consideration and determination requirements of paragraph (i) of the proposed regulation (*i.e.,* the liquidity factor) if the fiduciary, after an objective, thorough, and analytical investigation, concludes that the increase in the value of the guaranteed monthly payments for the lives of the participants and beneficiaries that select to invest in this designated investment alternative and the certainty of the insurer's guarantee under the contract justify the restrictions on liquidity. Put differently, the example demonstrates that the plan fiduciary in this example must balance the restrictions on liquidity under the annuity contract with the value of the guaranteed monthly payments under the annuity contract, recognizing that such guarantees help plan participants manage investment and longevity risk for the rest of their lives, and determine that the lack of liquidity is justified by a commensurate expected increase in the return on investment or certainty with respect to future payments.

Paragraph (i)(3) of the proposed regulation contains a positive example of how a plan fiduciary may be deemed to have appropriately considered the plan-level liquidity needs of the plan when selecting a designated investment alternative, including one that holds a portion of illiquid, non-publicly traded securities. Just as plan participants may want or need liquidity, retirement plans themselves may need to convert a designated investment alternative's assets into cash without a reduction in value. For example, plans may terminate, merge, or the plan fiduciary may simply decide to liquidate the plan's share in a designated investment alternative if the fiduciary decides to close out the position. Plan-level liquidity considerations also include whether the designated investment alternative manager has the ability to maintain asset allocation targets if other plans (or other investors) demand a redemption.

In traditional pooled investments in publicly traded stocks and bonds, these liquidity needs are typically not hard to meet. Most funds hold securities that can be sold in public markets quickly without lowering the price. In contrast, pooled investments that plan to manage liquidity while also holding sleeves of illiquid assets may impose various kinds of liquidity restrictions (such as requiring advance notice and permitting only incremental redemptions over a period of time) to ensure that they do not stray too far from their asset allocation targets by selling liquid assets to meet redemptions, leaving the funds with an overallocation to illiquid assets relative to the strategy target.

The conclusion in this example illustrates two paths a plan fiduciary may follow to demonstrate that it appropriately considered and determined that the scope and duration of redemption restrictions at the plan level meet the anticipated needs of the plan.

The first path is the same approach discussed in the example in paragraph (i)(1) of the proposed regulation addressing participant-level liquidity needs of the plan. Under this path, a fiduciary may rely on the fact that a mutual fund is required to adopt and implement a written liquidity risk management program that is reasonably designed to assess and manage its liquidity risk under the Act. With respect to designated investment alternatives that are not mutual funds, the plan fiduciary could obtain a written representation that the designated investment alternative has adopted and implemented a liquidity risk management plan substantially similar to a program that meets the requirements of such Act (or otherwise perform appropriate due diligence), provided that the plan fiduciary read, critically reviewed and understood any written representation (independently or with assistance of a qualified investment professional if necessary) and did not know (or have reason to know) other information which would cause the fiduciary to question any written representation.

Under the second path, plan fiduciaries may instead conduct an objective, thorough, and analytical evaluation, on their own or with the help of a third-party investment advice fiduciary, to assess whether a pooled investment is sufficiently liquid to offer as a designated investment alternative. The plan fiduciary should determine the time it would take a designated investment alternative to sell its illiquid investments in the quantity required by the plan's liquidity needs without reducing their value and the liquidity restrictions the investment manager places on the designated investment alternative. The plan fiduciary must conclude that the designated investment alternative appropriately balances future liquidity needs with the ability of the designated investment alternative to achieve increased risk-adjusted return on investment net of fees and the ability to maintain its asset allocation targets even if the fund faces a significant pull on liquidity from redemption requests.

Paragraph (i)(4) of the proposed regulation provides an example that demonstrates a prudent evaluation of liquidity at both the participant and plan level with respect to a pooled investment vehicle that trades liquidity for the ability to diversify into alternative investments to achieve better risk-adjusted returns net of fees. In this example, the plan fiduciary is considering selecting as a designated investment alternative a fund that only permits quarterly redemptions at the

plan level but provides daily liquidity to individual participant investors. This liquidity restriction on the plan provides flexibility for the designated investment alternative's manager, and the fund allocates a portion of its holdings to private assets, some or all of which are illiquid.

The fiduciary obtains representations that the designated investment alternative has adopted and implemented a program that imposes requirements substantially similar to the requirements related to liquidity risk management programs for mutual funds. The timing of the liquidity management is designed to ensure the fund can meet the redemption rights of participating plans while providing plan participants with daily liquidity. Just as in the other examples, the fiduciary reads and critically reviews the written representations, and the fiduciary consults a third-party investment advice fiduciary. The fiduciary also does not know, or have reason to know, other information which would cause the fiduciary to question the written representations. In this case, the fiduciary, after an objective, thorough, and analytical evaluation, determines that the redemption structure of the product is appropriate for the needs of the plan and its participants, and the plan-level liquidity tradeoffs are worth the expected increase in risk-adjusted return net of fees. As the example notes, this analysis may benefit from the assistance of a professional adviser or advisors.

8. Valuation

8.1. The Standard

Paragraph (j) of the proposed regulation identifies valuation as a factor for fiduciary consideration in selecting designated investment alternatives. It provides that the fiduciary must appropriately consider and determine that the designated investment alternative has adopted adequate measures to ensure that the designated investment alternative is capable of being timely and accurately valued in accordance with the needs of the plan. For illustrative purposes, paragraph (j) also contains four examples in which plan fiduciaries apply this factor in connection with selecting a designated investment alternative.

8.2. Valuation Examples

Paragraph (j)(1) of the proposed regulation provides an example involving a designated investment alternative that holds investments that trade daily on a public exchange regulated under section 6 of the Securities Exchange Act of 1934, other than cash and cash equivalents. The example clarifies that plan fiduciaries may rely on asset valuations derived from a national securities exchange or another similar, public exchange to the extent the exchange constitutes a generally recognized market through which the value of the investment is readily and accurately determinable in a timely manner. The example concludes that a fiduciary that relies on valuations derived from public exchanges is deemed to have objectively, thoroughly, and analytically determined that the designated investment alternative has adopted adequate measures to ensure that it can be timely and accurately valued in accordance with the needs of the plan.[44] This example therefore is consistent with the view that investors, including fiduciaries, may rely on public exchanges to determine the value of an investment because those exchanges generally incorporate all publicly available information.[45]

Paragraph (j)(2) of the proposed regulation provides an example involving a designated investment alternative that contains some securities that trade daily on a public exchange (*i.e.,* publicly-traded securities) and some securities for which there is not a generally recognized market (*i.e.,* non-publicly-traded securities). The named fiduciary in this example receives a written representation that the non-public securities are valued no less frequently than quarterly through a conflict-free, independent process according to valuation techniques that satisfy the Financial Accounting Standards Board (FASB) Accounting Standards Codification 820 on Fair Value Measurement.[46] The fiduciary also receives the current value of each share/unit of or interest in the designated investment alternative in writing. The fiduciary's reliance on this valuation method is considered prudent because the process for determining value was conflict-free, independent, and relies on the application of widely recognized and utilized accounting standards. Consequently, the fiduciary will be determined to have met the consideration and determination requirements of paragraph (j) with respect to the designated investment alternative provided it reads, critically reviews, and understands any written representations and it does not have any information that would cause him to question them.

Importantly, the conclusion of the example in paragraph (j)(2) of the proposed regulation would not change solely because the manager of the investment, acting in good faith, is permitted to adopt alternative valuation procedures if the manager determines and documents a temporary emergency that could result in a negative impact on investors if the generally applicable valuation procedures are followed. The example identifies such a temporary emergency as arising if investors would be able to redeem their interests based on a valuation that the manager believes is inflated and that would result in significant harm to remaining investors.

Paragraph (j)(3) of the proposed regulation provides an example involving a mutual fund that contains some securities that trade daily on a public exchange and some securities for which there is not a generally recognized market. Under the Investment Company Act and rule 2a–5 thereunder, mutual funds are required to have audited financial statements prepared in accordance with generally accepted accounting principles. These audited financial statements include an auditor's report. As part of its process, the plan fiduciary may seek additional assurance by reviewing a fund's publicly available financial statements and valuation-related disclosures to confirm compliance with all applicable requirements under the Investment Company Act related to pricing and valuation of its shares and by reviewing a fund's Form N–1A prospectus disclosures to confirm that a majority of the fund's board is independent (or ''non-interested'').[47] The example concludes that the fiduciary will have met the consideration and determination requirement of paragraph (j) with respect to the designated investment alternative if the fiduciary reviews the mutual fund's publicly

[44] *See, e.g., Fifth Third Bancorp.* v. *Dudenhoeffer,* 573 U.S. 409, 426–27 (''ERISA fiduciaries . . . may, as a general matter, likewise prudently rely on the market price.'').

[45] *See Amgen Inc.* v. *Conn. Ret. Plans & Trust Funds,* 568 U.S. 455, 462 (2013) (''[I]t is reasonable to presume that *most* investors—knowing that they have little hope of outperforming the market in the long run based solely on their analysis of publicly available information—will rely on the security's market price as an unbiased assessment of the security's value in light of all public information.'' (emphasis added)).

[46] *See, e.g., In re WorldCom, Inc. Sec. Litig.,* 352 F. Supp. 2d 472, 478 n.3 (S.D.N.Y. 2005) (finding that the FASB is ''the designated organization in the private sector for establishing standards of financial accounting and reporting'').

[47] This includes Rules 22c–1 (17 CFR 270.22c–1 (pricing of redeemable securities for distribution, redemption and repurchase)), 2a–4 (17 CFR 270.2a–4 (definition of ''current net asset value'' for use in computing periodically the current price of redeemable security)), and 2a–5 (17 CFR 270.2a–5 (fair value determination and readily available market quotations)).

available audited financial statements, and valuation-related disclosures; consults with a qualified investment professional, if necessary; and the fiduciary does not know or have reason to know information which would cause the fiduciary to question the veracity of the audited financial statements. The example illustrates the principle that plan fiduciaries selecting designated investment options governed by the Investment Company Act may rely on asset valuations that result from the application of reasonable valuation procedures adopted to comply with the Act and rule 2a–5 thereunder.

Paragraph (j)(4) of the proposed regulation provides an example involving a designated investment alternative that is a continuation fund (Fund) managed or controlled by an entity (Manager) that has recently acquired or contemplates an imminent acquisition of assets from an investment vehicle, such as another fund or vehicle with alternative assets, that is managed or controlled by the Manager or an affiliate of the Manager. Because non-publicly traded assets may be purchased for the Fund from a vehicle controlled by the manager or an affiliated investment vehicle, the potential for the Manager to rely on a conflicted or self-serving valuation is particularly acute, potentially diminishing the risk-adjusted returns offered by the designated investment alternative. And instead of ensuring that valuations are obtained through an independent and conflict-free process, the named fiduciary responsible for the selection of the designated investment alternative agrees that a proprietary valuation methodology relying on inputs provided by affiliates of the Manager may be used. This example reflects a flawed selection process that does not demonstrate that the fiduciary appropriately considered and determined that the designated investment alternative had adopted adequate measures to ensure that the designated investment alternative was capable of being timely and accurately valued in accordance with the needs of the plan. Even where designated investment alternatives do not hold plan assets under ERISA, conflicts of interest can exist. Where those conflicts could impact risk-adjusted return on investment, the duty of prudence generally requires a fiduciary to take appropriate steps to understand and mitigate any such adverse impacts and make a determination that the conflict of interest has not and will not render the designated investment alternative's valuation inaccurate.

The Department invites comment on whether, and if so how, this rulemaking should be modified to include additional safeguards, consistent with the proposal's asset-neutral, process-based framework and E.O. 14330, to address risks that may arise in connection with the valuation and asset selection process of certain private asset vehicles, such as continuation funds. The Department welcomes comment on approaches for addressing such risks in a manner consistent with ERISA's fiduciary standards.

9. Performance Benchmark

9.1. The Standard

Paragraph (k) of the proposed regulation emphasizes the importance of using a meaningful benchmark as a factor when selecting designated investment alternatives. In relevant part, paragraph (k) of the proposal provides that the fiduciary must appropriately consider and determine that each designated investment alternative has a meaningful benchmark and compare the risk-adjusted expected returns, net of fees, of the designated investment alternative to the meaningful benchmark. This provision reflects the great weight of authority.[48]

Paragraph (k) of the proposed regulation defines ''meaningful benchmark'' for this purpose as ''an investment, strategy, index, or other comparator that has similar mandates, strategies, objectives, and risks to the designated investment alternative.'' [49] The point of this definition is to ensure sufficient likeness between the comparator and the designated investment alternative. Furthermore, it follows from this definition that while there may be more than one meaningful benchmark for a designated investment alternative, no single benchmark is a meaningful benchmark for all designated investment alternatives on a plan investment menu. Paragraph (k) of the proposed regulation incorporates this unassailable principle.

As indicated, paragraph (k) of the proposed regulation requires the plan fiduciary to compare the risk-adjusted expected returns, net of fees, of the designated investment alternative to the meaningful benchmark. For purposes of this comparison, paragraph (k) of the proposed regulation provides that the ''risk-adjusted expected returns'' of the designated investment alternative may be determined based on its historical performance, unless it has none, in which case it may be determined based on the historical performance of a different investment with similar mandates, strategies, objectives, and risks and that is not the meaningful benchmark.

While a fiduciary should try to identify benchmarks that are as meaningful as possible, there is no presumption or preference against new or innovative designated investment alternative designs. Instead, when considering a new or innovative product design, a fiduciary should simply seek to identify the best possible comparators to it while also assessing the potential value proposition presented by that design.[50]

9.2. Benchmark Examples

Paragraph (k)(1) of the proposed regulation provides an example of a performance benchmark for a designated investment alternative that is a target date fund. The target date fund's strategy and objective involve investing in asset classes that change over time,

[48] *See, e.g., Matney* v. *Barrick Gold,* 80 F.4th 1136, 1149 (10th Cir. 2023) (describing the need for ''an apples-to-apples comparison''); *Matousek* v. *MidAmerican Energy Co.,* 51 F.4th 274, 278 (8th Cir. 2022) (describing the need for a ''meaningful benchmark''); *Davis* v. *Wash. Univ. in St. Louis,* 960 F.3d 478, 483–85 (8th Cir. 2020) (''[T]o create an inference of a 'flawed' process,'' however, an investment's underperformance must be measured against a '' 'meaningful benchmark . . . . [c]omparing apples and oranges is not a way to show that one is better or worse than the other.' '' (citation omitted)).

[49] *See, e.g., Matney* v. *Barrick Gold,* 80 F.4th 1136, 1148 (10th Cir. 2023); *Meiners* v. *Wells Fargo & Co.,* 898 F.3d 820, 823 (8th Cir. 2018). The definition in paragraph (k) of the proposed regulation flows from the fact that the federal courts of appeals have recognized that, in evaluating the duty of prudence in the context of comparative performance, ''[c]omparing apples and oranges is not a way to show that one is better or worse than the other.'' *Davis* v. *Wash. Univ. in Saint Louis,* 960 F.3d 478, 485 (8th Cir. 2020). Moreover, the mere fact that an investment is labelled ''as 'comparable' or 'a peer' is insufficient to establish that those [investment options] are meaningful benchmarks.'' *Anderson* v. *Intel Corp. Inv. Pol'y Comm.,* 137 F.4th 1015, 1023 (9th Cir. 2025). ''The need for a relevant comparator with similar objectives—not just a better-performing plan or investment—is implicit in ERISA's text'' such that the statute makes the standard of care that of a hypothetical prudent person acting in a ''like capacity'' in the conduct of an enterprise ''of a like character,'' and ''with like aims.'' *Id.* at 1022.

[50] The Department notes that the standard in proposed paragraph (k)—that a fiduciary must appropriately consider and determine that each designated investment alternative has a meaningful benchmark and compare the risk-adjusted expected returns, net of fees, of the designated investment alternative to the meaningful benchmark—is designed to apply to the fiduciary's prudent process in selecting a designated investment alternative. The benchmark that is selected for disclosure to participants for purposes of the Department's participant-disclosure regulation at 29 CFR 2550.404a-5 has a different purpose, *i.e.,* ''for participants to use in assessing the various investment options available under their plans[,]'' and is governed by the requirements of that regulation. *Fiduciary Requirements for Disclosure in Participant-Directed Individual Account Plans,* 75 FR 64910, 64916 (Oct. 20, 2010).

with different degrees of risk, gradually becoming more conservative over time. The example concludes that the plan fiduciary's use of a benchmark that is an index that tracks the returns of large capitalization U.S. equities (when a more similar potential benchmark was available) would not establish that the fiduciary satisfied the requirements of paragraph (k) of the proposed regulation. A large capitalization index is not a meaningful comparator because it tracks different securities than the target date fund holds. Furthermore, the large capitalization index only adjusts its constituents over time due to changes in the constituent securities' market capitalizations, rather than based on the years until a particular date, as a target date fund does. This example illustrates the principle that a performance benchmark must be a meaningful comparator by sharing similar traits, including mandates, strategies, objectives, and risks to the designated investment alternative.

Paragraph (k)(2) of the proposed regulation contains an example of a performance benchmark for a designated investment alternative that is an asset allocation fund, and which contains a private equity sleeve, as well as publicly traded stocks and bonds. In the example, a prudently selected investment advice fiduciary within the meaning of ERISA section 3(21)(A)(ii), who has no affiliation with the asset allocation fund, recommended the designated investment alternative after creating a composite benchmark measuring risk-adjusted expected returns, net of fees, of the two sleeves of the designated investment alternative. For the stock and bond sleeves, the composite blends the performance of broad-based securities market indices relative of and in proportion to the stock and bond holdings of the designated investment alternative. For the private equity sleeve, it uses a combination of methodologies commonly used by investment professionals, including the internal rate of return method and a public market equivalent method (presented with explanations of how to interpret them). The investment advice fiduciary in this example also provides the named fiduciary with a written explanation of the composite benchmark, which the named fiduciary reads, critically reviews, and understands.

The plan fiduciary in this example satisfies paragraph (k) of the proposed regulation and ERISA section 404(a)(1)(B) because it objectively, thoroughly, and analytically considered and determined that the designated investment alternative has a meaningful benchmark and then compared the risk-adjusted expected returns, net of fees, of the designated investment alternative to the meaningful benchmark. The composite benchmark reflects the strategies and proportions of the underlying assets of the designated investment alternative. The named fiduciary read, critically reviewed, and understood the investment advice fiduciary's explanation of the composite benchmark. This example illustrates the principle that a named fiduciary, including in the context of the selection of an asset allocation fund which includes a sleeve of alternative assets, may rely on the expertise of an investment advice fiduciary in benchmark construction and analytics, so long as it reads, critically reviews, and understands the investment advice fiduciary's explanation.

Paragraph (k)(3) of the proposed regulation provides a positive example of a named fiduciary using a custom composite benchmark to select as a designated investment alternative a target date fund that holds only publicly traded stocks and bonds. The custom composite benchmark is a blend of broad-based securities market indices, which blend represents the asset allocation used to implement the target date fund's strategy. The named fiduciary reads, critically reviews and understands the benchmark description. The named fiduciary compares the historical performance of the target date fund to the historical returns of the custom composite benchmark as a means of evaluating the risk-adjusted expected returns, net of fees, of the target date fund.

The named fiduciary in this example satisfies the requirements of ERISA section 404(a)(1)(B) and paragraph (k) of the proposed regulation by analytically, thoroughly, and objectively considering and determining within its discretion that the designated investment alternative has a meaningful benchmark which shares similar traits, including mandates, strategies, objectives, and risks, and comparing the risk-adjusted expected returns, net of fees, between the designated investment alternative and the benchmark. This example illustrates the principle that plan fiduciaries may, if appropriate under the circumstances because the fiduciary reviewed and understood the benchmark and because the custom composite shares similar traits with the designated investment alternative, rely on benchmarks that blend multiple broad-based securities market indices to represent the asset allocation used to implement the target date fund's strategy.

10. Complexity

10.1. The Standard

Proposed paragraph (*l*) addresses the impact of an investment's complexity on a fiduciary's prudent selection of the investment as a designated investment alternative for a plan's participants. It would make clear that plan fiduciaries are not precluded from prudently selecting sophisticated investment strategies that may be complex. In doing so, the paragraph provides that the fiduciary must appropriately consider the complexity of the designated investment alternative and determine that it has the skills, knowledge, experience, and capacity to comprehend it sufficiently to discharge its obligations under ERISA and the governing plan documents or whether it must seek assistance from a qualified investment advice fiduciary, investment manager, or other individual. In this regard, the Department has previously stated in the case of complex investments, plan fiduciaries are responsible for securing sufficient information to understand the investment, and its attendant risks, prior to making the investment.[51]

If a plan fiduciary determines to seek assistance in selecting a designated investment alternative, the fiduciary must make a prudent selection of an investment professional. The named fiduciary should consider all the relevant circumstances, including the knowledge, skill, and compensation of the investment professional. Seeking assistance from a professional that is an ERISA fiduciary—such as an investment advice fiduciary as defined in section 3(21)(A)(ii) of ERISA or an investment manager as defined in section 3(38) of ERISA—can provide important benefits to the plan's participants and beneficiaries, as those professionals also must comply with ERISA's fiduciary duties. Moreover, if a named fiduciary appoints an investment manager within the meaning of ERISA section 3(38), the named fiduciary is responsible for the prudent selection of the manager but is not liable for the individual investment decisions of that manager.[52]

As noted in proposed paragraph (*l*), a plan fiduciary must seek assistance from a qualified investment advice fiduciary,

[51] U.S. Dep't of Labor, Employee Benefits Security Admin., Information Letter from Louis J. Campagna to Jon Breyfogle, at n.7 (June 3, 2020) (citing Information Letter from Olena Berg to Eugene A. Ludwig (Mar. 21, 1996) (at *www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/information-letters/03-21-1996*)).

[52] However, the named fiduciary must monitor the manager periodically to assure that it is handling the plan's investments in accordance with the appointment.

investment manager, or other individual if the plan fiduciary determines that it does not have the skills, knowledge, experience, or capacity to understand an investment sufficiently to discharge its obligations under ERISA and the governing plan documents. *See, e.g., Chesemore* v. *All. Holdings, Inc.,* 886 F. Supp. 2d 1007, 1041–42 (W.D. Wis. 2012), *aff'd sub nom. Chesemore* v. *Fenkell,* 829 F.3d 803 (7th Cir. 2016) (stating that when fiduciaries ''lack the requisite knowledge, experience and expertise to assess the prudence of an investment, the duty of care may require them to hire independent professional advisors''); *Harley* v. *Minn. Mining & Mfg. Co.,* 42 F. Supp. 2d 898, 907 (D. Minn. 1999), *aff'd sub nom. Harley* v. *Minn. Min. & Mfg. Co.,* 284 F.3d 901 (8th Cir. 2002) (''[(''[I]f]f a fiduciary lacks the education, experience, or skills to be able to conduct a reasonable, independent investigation and evaluation of the risks and other characteristics of the proposed investment, it must seek independent advice.''); *Liss* v. *Smith,* 991 F. Supp. 278, 297 (S.D.N.Y. 1998) (''[(''[W]here]here the trustees lack the requisite knowledge, experience and expertise to make the necessary decisions with respect to investments, their fiduciary obligations require them to hire independent professional advisors.''). The Department notes that with respect to the other safe harbors proposed herein, to the extent a plan fiduciary reasonably relies on recommendations of a prudently selected investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, or prudently delegates compliance to an investment manager within the meaning of section 3(38) of ERISA, that fact will be indicative of a prudent process. However, none of the safe harbors require a plan fiduciary to seek assistance from an investment advice fiduciary or investment manager, regardless of whether such assistance is referred to in the factual discussion of the safe harbor. Rather, the standard is whether the fiduciary has the skills, knowledge, experience, or capacity to understand an investment sufficiently to discharge its obligations under ERISA and the governing plan documents.

10.2. Complexity Examples

Proposed paragraph (*l*)(1) provides an example of complexity in the area of fees. As noted in paragraph (h) of the proposed regulation, the plan fiduciary must determine that the fees and expenses of a designated investment alternative are appropriate, taking into account the designated investment alternative's risk adjusted returns and any other value the designated investment alternative brings to furthering the purposes of the plan. Paragraph (*l*)(1) addresses the fiduciary's obligation to understand the complex fees that will be charged to the plan.

The example in proposed paragraph (*l*)(1) describes a pooled investment vehicle that has target positions in private assets which employ variable fee-based incentive structures to drive performance, including management fees and performance fees which include carried interest rights. It then describes two scenarios in which a plan fiduciary is deemed to have met the comprehension requirements. In the first scenario, the plan fiduciary conducts relevant due diligence with respect to understanding the fees and expenses, with the advice of a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, if appropriate. After the evaluation, the plan fiduciary concludes that the fee structure will deliver increased value that outweighs the variability and potential unpredictability of the amount and timing of the fees. In the second scenario, the plan fiduciary determines based on written representations from the fund manager that the manager will internalize the underlying fees and the plan will pay only an appropriate, flat fee based on assets under management in the pooled investment product.

Proposed paragraph (*l*)(2) relates to complexity in the area of participant needs and illustrates an example that would not satisfy paragraph (*l*) and section 404(a)(1)(B) of ERISA. In the example, the named fiduciary selects as the plan's qualified default investment alternative a managed account service designed to create a customized portfolio targeted to each participant's unique financial circumstances. The named fiduciary, that does not understand the design of the service and does not seek professional advice, provides only the age of each participant to the service and does not provide, or permit participants to provide, additional information about their unique financial circumstances. As a result, the service creates a portfolio for each participant that is materially similar to the portfolio that the participant would obtain through the plan's target date fund, which has substantially lower fees. This example demonstrates a flawed selection process in which the named fiduciary appears to not understand how the designated investment alternative delivered value to the plan and therefore failed to operationalize it accordingly.

11. Designated Investment Alternative Defined

Paragraph (m)(1) of the proposal generally defines the term ''designated investment alternative'' to mean any investment alternative designated by the plan into which participants and beneficiaries may direct the investment of assets held in, or contributed to, their individual accounts, including a qualified default investment alternative within the meaning of 29 CFR 2550.404c–5. This proposed definition includes qualified default investment alternatives because, even though participants are defaulted into those investments, they have the opportunity to instead direct investment to other plan options. The Department believes this broad definition is appropriate to implement E.O. 14330's directive for guidance with respect to a fiduciary's duties ''when deciding whether to make available'' particular investments. However, because the Department is of the view that the application of fiduciary principles to investments that a plan participant makes through arrangements such as self-directed brokerage windows may be somewhat different, proposed paragraph (m)(2) makes clear that the term ''designated investment alternative'' does not include ''brokerage windows,'' ''self-directed brokerage accounts,'' or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan.

The definition of ''designated investment alternative'' in the proposal would extend to managed account services that are qualified default investment alternatives.[53] In this respect, the term designated investment alternative in the proposal would have broader scope than in the Department's participant-level disclosure regulation at 29 CFR 2550.404a–5, which does not include an investment management service as a designated investment alternative subject to the regulation's investment-related disclosure requirements (although certain other disclosure obligations would apply).[54] The narrower scope of the definition in the participant-level disclosure regulation relates to the practicality of making the investment-related disclosures with respect to a managed account service, as opposed to a

[53] *See e.g.,* proposed paragraph (*l*)(2) discussing application of the proposal to a qualified default investment alternative that is a managed account service.

[54] Field Assistance Bulletin No. 2012–02R, Q27, *https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2012-02r.*

determination that managed account services should be distinct for all purposes. Given the prevalence of qualified default investment alternatives in participant-directed individual account plans, extending the fiduciary safe harbors in the proposal to all types of qualified default investment alternatives, including managed account services, is particularly important.[55]

11.1. Settlor Discussion

Paragraph (m)(3) of the proposed regulation explains that the term ''designated investment alternative'' does not include plan design features chosen by plan settlors in a nonfiduciary capacity. While, as explained above, the term ''designated investment alternative'' is defined broadly to include a qualified default investment alternative within the meaning of 29 CFR 2550.404c–5, the Department believes it is important to clarify that the definition does not stretch so broadly as to capture noninvestment features that may be chosen by plan settlors. This is particularly salient for longevity risk-sharing pools which are specifically discussed in E.O. 14330. While it is true that a longevity risk-sharing pool might be implemented or offered in a participant-directed individual account plan through a designated investment alternative, it is also true that a longevity risk-sharing pool might be implemented by a plan sponsor through structural changes to a plan design.[56]

12. Regulatory Impact Analysis

The Department has examined the effects of the proposal as required by Executive Order 13563,[57] Executive Order 12866,[58] the Paperwork Reduction Act of 1995,[59] the Regulatory Flexibility Act,[60] section 202 of the Unfunded Mandates Reform Act,[61] Executive Order 13132,[62] and Executive Order 14192.[63]

12.1. Executive Orders

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives. If regulation is necessary, agencies must select a regulatory approach that maximizes net benefits, including potential economic, environmental, public health, and safety effects; distributive impacts; and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Under Executive Order 12866, ''significant'' regulatory actions are subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities (also referred to as ''economically significant'');

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This proposal seeks to clarify the relevant factors and determinations that fiduciaries should consider when selecting designated investment alternatives for participant-directed individual account plans under section 404(a)(1)(B). OMB has determined that this proposal is significant within the meaning of Section 3(f)(1) of Executive Order 12866. The Department has provided an assessment of the proposal's potential costs, benefits, and transfers associated with this proposed rule.

Executive Order 14192, *Unleashing Prosperity Through Deregulation,* was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with prior regulations. A significant regulatory action (as defined in section 3(f) of Executive Order 12866) that would impose total costs less than zero is considered an Executive Order 14192 deregulatory action. This proposed rule, if finalized as proposed, is, therefore, expected to be an Executive Order 14192 deregulatory action. The proposed rule offers plan sponsors more confidence in exercising their choice in provision of designated investment alternatives for the plan, and results in significant time and cost savings for plans.

The Department, as directed by Executive Order 14192, estimates that the perpetual time horizon present value costs would be −$8,155.2 million in 2024 dollars with annualized costs of −$570.9 million.

12.2. Need for Regulatory Action

On August 7, 2025, the President issued Executive Order 14330, *Democratizing Access to Alternative Assets for 401(k) Investors*.[64] This Executive Order requires the Department to:

(1) Reexamine its guidance on what a fiduciary's duties are under ERISA when considering whether to offer an asset allocation fund with exposure to alternative assets to defined contribution plan participants; and

(2) Clarify its position on alternative assets and what the appropriate fiduciary process would be for a fiduciary to offer asset allocation funds with exposure to alternative assets to defined contribution plan participants.

To this end, Executive Order 14330 urges the Department to propose rules, regulations, or guidance, as appropriate, to clarify the duties that such a fiduciary owes to plan participants and beneficiaries when considering offering an investment fund with exposure to alternative assets. In particular, these clarifications identify the criteria fiduciaries should use to prudently balance potentially higher expenses against the objectives of seeking greater

[55] *See* 29 CFR 2550.404c–5(b)(2) (''Nothing in this section shall relieve a fiduciary from its duties under part 4 of title I of ERISA to prudently select and monitor any qualified default investment alternative under the plan or from any liability that results from a failure to satisfy these duties, including liability for any resulting losses.'').

[56] *Compare,* for example, a product like CREF's ''variable annuity,'' which offers longevity risk pooling and could be offered as a designated investment alternative through the prudent process described in the proposed regulation *with* a settlor decision to implement a longevity risk pooling payout feature within the design of a participant-directed individual account plan, separate and apart from any underlying plan investment. *See, e.g., Where Are the Retirement Tontines?,* Larry Pollack, Regulation (Spring 2023) (explaining how CREF's variable annuity product creates open ''longevity pools''); *Individual Tontine Accounts,* Richard K. Fullmer & Michael J. Sabin, Journal of Accounting and Finance (Aug. 8, 2018) (describing how longevity risk pooling could be implemented, as a design matter, in an account-based solution, in a way that is wholly agnostic to the underlying investment or designated investment alternative).

[57] 76 FR 3821 (Jan. 21, 2011).

[58] 58 FR 51735 (Oct. 4, 1993).

[59] 44 U.S.C. 3506(c)(2)(A) (1995).

[60] Public Law 96–354, 94 Stat. 1164 (1980).

[61] Public Law 104–4, 109 Stat. 48 (1995).

[62] 64 FR 43255 (Aug. 9, 1999).

[63] 90 FR 9065 (Feb. 6, 2025).

[64] 90 FR 38921 (Aug. 12, 2025).

long-term net returns and broader diversification of investments.

Executive Order 14330 defines alternative assets to include private market investments, direct and indirect interests in real estate, holdings in actively managed investment vehicles investing in digital assets, direct and indirect investments in commodities, direct and indirect interests in projects financing infrastructure development, and lifetime income strategies. This proposed rule, however, is not limited solely to the conditions that must be met for a fiduciary to offer an asset allocation fund with exposure to alternative assets to defined contribution plan participants and beneficiaries. Rather, it clarifies more broadly that section 404(a)(1)(B) of ERISA does not require or restrict any specific type of designated investment alternative, except insofar as a designated investment alternative might be otherwise illegal, provided the fiduciary with responsibility or authority to select designated investment alternatives follows a prudent process when establishing a menu to enable participants and beneficiaries in such plans to help improve risk-adjusted returns on investment.

In addition, Executive Order 14330 directs the Department to ''prioritize actions that may curb ERISA litigation that constrains fiduciaries' ability to apply their best judgment in offering investment opportunities to relevant plan participants.'' Fiduciaries generally adopt a process-driven approach when selecting designated investment alternatives. This process, however, can vary significantly across plans because of the lack of regulatory clarity, with this variation exposing plans to litigation risk when plaintiffs argue that fiduciaries should have selected something else. As a result, when asked, some plans indicated that they opted not to offer services or investment options that other plans did not offer, fearing that atypical offerings would put them at risk of litigation.[65]

By issuing this proposed rule and clarifying the steps fiduciaries should consider taking when making these determinations, as well as providing a safe harbor for fiduciaries fulfilling these requirements, the Department will enable responsible plan fiduciaries to consider and exercise their duties with respect to the selection of any investment when making plan investment menu selections.

12.2.1. Clarifying the Standard for Selection of Designated Investment Alternatives

In recent years, plaintiffs have increasingly pursued legal action related to the alleged imprudent selection of fund options, investment styles, or account structures, and the imprudent selection of service providers and negotiation of fee arrangements. These claims are typically evaluated based on whether the fiduciary engaged in a thorough, independent investigation of the kind that other prudent fiduciaries would have engaged in under similar circumstances.[66] In their review, courts have held that prudence is evaluated ''prospectively, based on the methods the fiduciaries employed, rather than retrospectively, based on the results they achieved,'' [67] and that ''a fiduciary need not take a particular investment course to meet the prudent person standard.'' [68] But court decisions have been inconsistent, with courts often allowing cases to proceed to discovery, which causes plans to spend millions in defense and creates settlement leverage for plaintiffs.[69]

The Department's 1979 Investment Duties Regulation under section 404(a)(1)(B) of ERISA discusses the duties of the fiduciary when selecting investments, including taking into consideration the risk of loss and the opportunity for gain associated with the investment compared to that of reasonably available alternatives with similar risks. Additionally, it highlights certain factors that should be weighed, including diversification benefits, liquidity, current cash flow relative to the plan's anticipated cash flow, and the projected return. However, the statute is agnostic regarding how a fiduciary demonstrates that it carefully evaluated those issues and acted prudently in its decision to make the selection. As a result, fiduciaries, lacking clarity and guidance, may avoid making selections that could be beneficial to plan participants and beneficiaries but whose selection may be more challenging to justify and, therefore, more vulnerable to litigation. This has particularly been an issue with regards to the inclusion of alternative assets in defined contribution plan investment menus because alternative assets often require different valuation and liquidity considerations than publicly traded stocks and bonds.[70]

12.2.2. Current Use of Alternative Investments in Retirement Plans

In directing the Department to pursue these objectives, the Executive Order points out that a number of alternative investments are already utilized in some state and local as well as private-sector defined benefit plans. In 2022, 99 percent of state and local government defined benefit pension plans held some share of their portfolio invested in alternative investments—namely private equity, hedge funds, real estate, and commodities—with these alternative investments representing 34 percent of all holdings for public pension funds.[71,72] A 2023 survey of Fortune 1000 defined benefit pension plans found that 68 percent of those plans held alternative investments, which in aggregate represented 18 percent of total holdings. However, the share of holdings for these plans varied significantly by plan size, with larger Fortune 1000 plans allocating more than 4 times as much to alternative assets in 2023 than their smaller counterparts, presumably due to in-house expertise and economies of scale.[73] The experience of public plans and private defined benefit plans investing in alternative assets is discussed in greater detail in section 12.7.3.1.4.

In contrast, defined contribution plans are far less likely to hold

[65] Courtney Zinter, Am. Benefits Council, *American Benefits Council Survey Finds: The Proliferating Risk of Baseless Retirement Plan Litigation is Harming Plan Participants and Retirement Security* (Oct. 2, 2025), *https://www.americanbenefitscouncil.org/pub/?id=80095a3f-cbb8-e46c-854f-a475d2c68358.*

[66] Vahick A. Yedgarian & Ram Paudel, *Quantitative Analysis of Damages in ERISA Fiduciary Breach Litigation,* Fin. & Inv. Plan. Educator eJournal 1 (Sept. 9, 2025), *https://dx.doi.org/10.2139/ssrn.5461234.*

[67] *Brief for Encore Fiduciary as Amicus Curiae* at 2, *Parker-Hannifin Corp.* v. *Johnson,* No. 24–1030 (U.S. May 21, 2025).

[68] Jenner & Block, *Practice Series: ERISA Litigation Handbook* 334 (2021), *https://www.jenner.com/a/web/tq6i81QxHmqcsmUPMXCWp5/4k1Xkb/Jenner%20%26%20Block%20-%20ERISA%20Litigation%20Handbook%20(Final%20Version%20-%202021).pdf.*

[69] *Brief for Encore Fiduciary as Amicus Curiae* at 22–23, *Parker-Hannifin Corp.* v. *Johnson,* No. 24–1030 (U.S. May 21, 2025).

[70] Taylor D. Nadauld, Berk A. Sensoy, Keith Vorkink & Michael S. Weisbach, *The Liquidity Costs of Private Equity Investments: Evidence from Secondary Market Transactions,* 132 J. Fin. Econ. 158, 158–181 (2019), *https://doi.org/10.1016/j.jfineco.2018.11.007.*

[71] This analysis was conducted using the *Public Plans Database* (PPD), which consists of roughly 220 major public pension plans (118 state and 100 local) that represent over 95 percent of total U.S. state and local pension assets and membership.

[72] Jean-Pierre Aubrey, *Public Pension Investment Update: Have Alternatives Helped or Hurt?,* Ctr. for Ret. Rsch. at Bos. Coll., Issue in Brief No. 22–20 (Nov. 22, 2022), *https://crr.bc.edu/public-pension-investment-update-have-alternatives-helped-or-hurt/.*

[73] Mercedes Aguirre & Brendan McFarland, *2023 Asset Allocations in Fortune 1000 Pension Plans,* Insider, Vol. 35, No. 2 (Feb. 2025), *www.wtwco.com/-/media/wtw/insights/2025/02/wtw-insider-2023-asset-allocations-in-fortune-1000-pension-plans.pdf?modified=20250225111427.*

alternative investments, with only 4 percent of defined contribution plans offering alternative investments in 2024, according to the 2025 PlanSponsor DC Plan Benchmarking Report.[74] When offered in defined contribution plans, alternative investments are typically limited to pooled, professionally managed funds, such as target date funds or managed accounts, and even then only by the largest defined contribution plans with significant resources to conduct due diligence. Smaller plans have generally avoided including these investments in their line-ups, as evaluating the offerings to ensure they meet valuation and liquidity requirements, finding appropriate benchmarks, and justifying complex fee structures has been extremely challenging.[75] As a result, only 0.1 percent of all defined contribution plan assets were in alternative investments in 2024.[76]

This has left defined contribution plans largely absent from an emerging financial sector without access to the fastest growing American companies. Since 2014, global private-equity markets have grown nine-fold, while public markets have only doubled.[77] While assets under management (AUM) in private capital represent only 2.4 percent of total financial assets, the market is growing, driven by an increasing number of U.S. companies remaining private and utilizing private sources to raise revenue.[78] Relatedly, ''over the past few decades, there has been a structural shift in the composition of capital markets away from public markets and towards private markets.'' [79] By discouraging defined contribution plans from including alternative investments in their line-ups, plan fiduciaries are restricting participants and beneficiaries from potential sources of retirement savings and growth.

12.2.3. Litigation Risk

Executive Order 14330 also instructed the Department ''to prioritize actions that may curb ERISA litigation that constrains fiduciaries' ability to apply their best judgment in offering investment opportunities to relevant plan participants.'' [80] In the past few decades, litigation alleging fiduciary breaches has surged, ''evolving from individual claims to large-scale class-action lawsuits that often target the selection and monitoring of investment options and the negotiation of service provider fees.'' [81] As a result, the possibility of litigation has become an additional factor when plan fiduciaries consider investment options. A 2025 convenience survey by the American Benefits Council of its defined contribution plan sponsor members found that roughly 29 percent of respondents, ''decided against offering services or investment options simply because other similar plans were not doing so, making the additional services or options vulnerable to litigation.'' [82] This development has raised concerns that plans may be avoiding more novel investment options that could improve participant outcomes because of potential litigation risk.[83]

The increasing risk of ERISA litigation has been well documented. An industry report documenting trends between 2020 and 2024, concluded that ''ERISA class action filings are at a fever pitch'' with all-time highs in 2024.[84] As documented in its brief for the *Parker-Hannifin Corp.* v. *Johnson* appeal, Encore Fiduciary noted that, ''[s]ince 2016 over half of plans with $1+ billion in assets have been targeted by at least one such lawsuit.'' [85] Moreover, no target has been spared with ''[a]ll types of plans, plan sponsors, and plan sizes being targeted in these trending ERISA class actions.'' [86] From the period between 2020 and 2024, ERISA class actions have spread across plan types (*i.e.,* into defined benefit and group health plans) and penetrated deeper into the plan market, with smaller and smaller plans becoming targets.[87]

The costs have been profound on an individual plan level and across the market. Encore Fiduciary discussed the costs to plans of responding to litigation in its brief, arguing that:

> [e]ven prevailing on a motion to dismiss can cost a defendant upwards of $2 million. If a plaintiff beats a motion to dismiss, defense costs skyrocket . . . . In addition to wading through document discovery and depositions, defendants must hire experts, who cost several millions of dollars. In Encore's experience, defense costs through summary judgment can run $5 million to $8 million. Taking a case to trial can cost $10 million or more . . . . Encore's tracking shows that there have been well over $1 billion in settlements since 2020, most for little more than the cost of defense.[88]

Separately, CHUBB estimates that attorneys' fees to defend an action through a motion for summary judgement may cost between $4 and $8 million. If the action goes to trial, plans may incur additional attorneys' fees

[74] PlanSponsor, *2025 DC Survey: Plan Benchmarking* (Jan. 7, 2025).

[75] Jessica Johnson, *The Democratization of Alternative Investments in 401(k) Plans,* DCIO Insights (June 2022), *https://www.wagnerlawgroup.com/wp-content/uploads/sites/1101401/2022/06/A0704783.pdf.*

[76] Jessica Hall, *Private Equity in 401(k) Plans? Highly Risky for the Average Investor,* MarketWatch (Jan. 11, 2025), *https://www.morningstar.com/news/marketwatch/20250111254/private-equity-in-401k-plans-highly-risky-for-the-average-investor.*

[77] Sanja Arya, *Breaking Barriers: Redefining Equity Market Portfolios with Venture Capital,* Morningstar Indexes (Nov. 2024), *https://assets.contentstack.io/v3/assets/bltabf2a7413d5a8f05/blt1aeeccec6ce5e015/6887a00b8c9c0c3eaeb99ee3/Breaking-barriers-Redefining-equity-market-portfolios-w-VC.pdf.*

[78] KKR, *An Alternative Perspective: Past, Present and Future,* Insights Global Market Trends (Sept. 2024), *https://www.kkr.com/content/dam/kkr/insights/pdf/2024-september-an-alternative-perspective.pdf.*

[79] Council of Econ. Advisers, *Retail Access to Alternative Investments Via Defined Contribution Plans* (Aug. 2025), *https://www.whitehouse.gov/research/2025/08/retail-access-to-alternative-investments-via-defined-contribution-plans/.* ''As of the end of 2024, there are about 35 million private companies and fewer than 4,000 public companies in the US. From 1997 to 2024, the number of public companies decreased by about 55 percent from around 8,800 while the number of private companies increased by about 67 percent from around 20 million''.

[80] 90 FR 38921 (Aug. 7, 2025).

[81] Vahick A. Yedgarian & Ram Paudel, *Quantitative Analysis of Damages in ERISA Fiduciary Breach Litigation,* Fin. & Inv. Plan. Educator eJournal 1 (Sept. 9, 2025), *http://dx.doi.org/10.2139/ssrn.5461234.*

[82] Am. Benefits Council, *The Proliferating Risk of Baseless Retirement Plan Litigation is Harming Plan Participants and Retirement Security* (Oct. 2, 2025), *https://www.americanbenefitscouncil.org/pub/?id=80095a3f-cbb8-e46c-854f-a475d2c68358.*

[83] The more that specious complaints survive dismissal, the more a fiduciary might feel they have no choice but to offer, for example, only ''a diversified suite of passive investments''—despite ''actually think[ing] that a mix of active and passive investments is best.'' *See* David McCann, *Passive Aggression,* CFO (June 22, 2016), *https://bit.ly/2Sl55Yq.* ''Before the increases in 401(k) plan litigation, some fiduciaries offered more asset choice by including specialty assets, such as industry-specific equity funds, commodities-based funds, and narrow-niche fixed income funds[,] options [that] could potentially enhance expected returns in well-managed and monitored portfolios. ; George S. Mellman & Geoffrey T. Sanzenbacher, *401(k) Lawsuits: What Are the Causes and Consequences?,* Ctr. for Ret. Rsch. at Bos. Coll. 5 (May 2018), *https://bit.ly/3fUxDR1.* Now fiduciaries overwhelmingly choose purportedly '''safe' funds over those that could add greater value.'' *Id.*

[84] CHUBB, *A Surprise Twist in ERISA Class Action Trends in 2024* (May 2025), *https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/2024-fiduciary-infographic-final.pdf.https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/2024-fiduciary-infographic-final.pdf.*

[85] *Brief for Encore Fiduciary as Amicus Curiae, Parker-Hannifin Corp.* v. *Johnson,* No. 24–1030 (U.S. May 21, 2025).

[86] CHUBB, *A Surprise Twist in ERISA Class Action Trends in 2024* (May 2025), *https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/2024-fiduciary-infographic-final.pdf.*

[87] CHUBB, *A Surprise Twist in ERISA Class Action Trends in 2024* (May 2025), *https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/2024-fiduciary-infographic-final.pdf.*

[88] *Brief for Encore Fiduciary as Amicus Curiae, Parker-Hannifin Corp.* v. *Johnson,* No. 24–1030 (U.S. May 21, 2025).

between $2 and $4 million as well as $2 million in experts' fees.[89]

Unsurprisingly, these costs create a powerful incentive to settle even meritless claims, which have been borne out by the data. CHUBB reported that ''the significant increase in the number of filings has been accompanied by a substantial uptick in the total annual number of settlements, which has increased six-fold from 2016 to 2022 . . . . At least 20% of the cases filed since 2016 cost more to defend than to settle.'' [90] As Justice Alito summarized in his concurring opinion for *Cunningham,* ''in modern civil litigation, getting by a motion to dismiss is often the whole ball game because of the cost of discovery. Defendants facing those costs often calculate that it is efficient to settle a case even though they are convinced that they would win if the litigation continued.'' [91]

The result of this litigation to settlement system is, as Justice Alito pointed out in his concurring opinion in *Cunningham,* that ''[t]he few plan participants named as plaintiffs and their attorneys get a windfall, and a cost that the administrator incurs may be passed on to the other plan participants.'' [92] As noted in *Dura Pharmaceuticals, Inc.* v. *Broudo,* the price of discovery (financial or otherwise) elevates the possibility that a ''a plaintiff 'with a largely groundless claim [will] simply take up the time of a number of other people, with the right to do so representing an *in terrorem* increment of the settlement value, rather than a reasonably founded hope that the [discovery] process will reveal relevant evidence.' '' [93] CHUBB estimates that one-third of settlements go to attorneys' fees.[94]

This has had several perverse effects. Resources that could be used for real employee benefits are instead diverted to the defense and settlement costs described above—weakening the retirement security of the American worker by making it more expensive for plan sponsors to offer generous benefits.[95] Compounding this problem, insurers have raised premiums and retentions because they are struggling to build underwriting models that predict litigation exposure.[96] In its brief for the *Parker-Hannifin Corp.* v. *Johnson* appeal, Encore Fiduciary noted an increase in retentions ''from $1 million to as high as $15 million for many policies.'' [97] Furthermore, because ERISA imposes personal liability on plan fiduciaries, there is a risk that this litigation epidemic will make it hard to find qualified advisers willing to step into that role.[98] Ultimately, with these increases in costs come a decreased likelihood that large employers will continue to offer generous voluntary retirement benefits, and that small employers will feel comfortable taking on the risk of exposure to litigation created by the simple act of voluntarily sponsoring a retirement plan for employees.

The assumption that litigation risk is impacting the menu offerings in participant-directed plans was corroborated by Gropper (2025), which examined the probability of litigation and its impact on the number and volatility of investment options offered.[99] Using actual court cases to model the likelihood of litigation for plans based on recordkeeper, year, and retirement plan-by-asset class fixed effects (such as state and industry), as well as Form 5500 data on plan investments, Gropper finds that, controlling for plan size, retirement plans with a greater probability of being sued have fewer menu options.[100] He further finds that defined contribution plans with a higher predicted likelihood of being sued are more likely to exclude high volatility investments, indicating that litigation risk does impact the number and type of investments offered to retirement plan investors.[101]

These findings suggest that plan fiduciaries may be excluding more complex investment options from their investment line-ups, not necessarily in response to a prudent assessment of whether the features in those investments are best suited to the needs of plan participants and beneficiaries, but rather because of the risk of litigation if plan fiduciaries depart from more traditional investments in favor of more creative or novel options. Without assurances that the application of a prudent process to select designated investment alternatives will help shield them from the risk of excessive litigation about such selection, defined contribution plan fiduciaries will continue to limit offerings of innovative plan options that would potentially enhance plan participants' and beneficiaries' retirement savings.

12.2.4. Summary

Defined contribution plans largely rely on the 1979 Investment Duties Regulation when designing their process for selecting designated investment alternatives in their menus. Defined contribution plan fiduciaries have generally avoided including investments that make them more vulnerable to claims of imprudence and potential litigation. As a result, defined contribution plans have severely limited incorporating alternative assets in their investment strategies, restricting the tools plan fiduciaries can employ to improve diversification, including through downside protection, potential net returns, and retirement savings outcomes for plan participants and beneficiaries. This proposed rule, by providing a safe harbor that is asset neutral, will clarify and provide protection for defined contribution plan fiduciaries in their requirements for prudently selecting investments for their menus. In turn, this will expand the universe of potential investment vehicles considered when choosing designated investment alternatives and potentially enhance the retirement security of participants and beneficiaries.

12.3. Regulatory Baseline

The obligations of a fiduciary when considering an investment or investment course of action are outlined in the 1979 Investment Duties Regulation. Specifically, for a decision to be deemed prudent, a fiduciary must

[89] CHUBB, *Excessive Litigation Over Excessive Plan Fees in 2023* (2023), *https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/excessive-litigation-over-excessive-plan-fees-infographic.pdf.*

[90] CHUBB, *Excessive Litigation Over Excessive Plan Fees in 2023* (2023),), *https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/excessive-litigation-over-excessive-plan-fees-infographic.pdf.*

[91] *Cunningham* v. *Cornell Univ.,* 604 U.S. 693, 710 (2025) (Alito, J., concurring).

[92] *Id.* at 711; *see also Pension Benefit Guar. Corp. ex rel. St. Vincent Catholic Med. Ctrs. Ret. Plan* v. *Morgan Stanley Inv. Mgmt. Inc.,* 712 F.3d 705, 719 (2d Cir. 2013).

[93] 544 U.S. 336, 347 (2005) (second alteration in original).

[94] CHUBB, *A Surprise Twist in ERISA Class Action Trends in 2024* (May 2025), *https://www.chubb.com/content/dam/chubb-sites/chubb-com/us-en/business-insurance/fiduciary-liability/pdfs/2024-fiduciary-infographic-final.pdf.*

[95] Fid Guru Blog, *Has ERISA Class Action Litigation Made a Positive Difference for Plan Participants?* (Oct. 31, 2023), *https://encorefiduciary.com/has-erisa-class-action-litigation-made-a-positive-difference-for-plan-participants/.*

[96] Ed. Antonucci, CRC GROUP, *Surge in Excessive Fee Litigation is Impacting Fiduciary Liability Insurance* (March. 2021), *www.crcgroup.com/Portals/34/Flyers/Tools-Intel/Fiduciary%20Liability%20Excess%20Fee%20Litigation.pdf?ver=2021-03=19-133939-113.*

[97] *Brief for Encore Fiduciary as Amicus Curiae, Parker-Hannifin Corp.* v. *Johnson,* No. 24–1030 (U.S. May 21, 2025).

[98] *Id.*

[99] Michael Gropper, *Lawyers Setting the Menu: The Effects of Litigation Risk on Employer-Sponsored Retirement Plans* (Aug. 2025), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4393420.*

[100] *Id.*

[101] *Id.*

give appropriate consideration to all facts and circumstances that the fiduciary knows or should know are relevant to the particular investment decision involved. Such factors include risk return, diversification, and liquidity, among others. The fiduciary must then, using all such relevant factors, determine whether the investment is reasonably designed to further the purposes of the plan before adopting it.

The Department has previously stated that it interprets ERISA section 404 as providing greater flexibility in the making of investment decisions by plan fiduciaries than might have been provided under pre-ERISA common and statutory law in many jurisdictions. In particular, the statute does not require or restrict any specific type of designated investment alternative, except insofar as a designated investment alternative might be otherwise illegal. The Department has at times, however, provided additional guidance relating to considerations fiduciaries should apply under this process towards certain investment vehicles.

12.3.1. 2020 Guidance

On June 3, 2020, the Department issued an information letter responding to an inquiry concerning the use of private equity investments within professionally managed asset allocation funds that are designated investment alternatives for participant-directed individual accounts.[102] Specifically, the party wished to offer private equity investments as part of a multi-asset class vehicle structured as a custom target date, target risk, or balanced fund and asked if such an investment satisfies the requirements set forth in sections 403 and 404 of ERISA. In its response, the Department acknowledged that plan fiduciaries could offer such a product, but noted that the evaluation process for fiduciaries to include an asset allocation fund with a private equity component as part of the investment lineup for a participant-directed individual account plan is different than that for including private equity investments in the portfolio of a professionally managed defined benefit plan.

In particular, the Department outlined a framework to evaluate whether a particular investment option satisfies the requirements set forth in sections 403 and 404 of ERISA. Defined contribution plan fiduciaries were directed to consider the fund's management and design and whether they are consistent with the characteristics and needs of plan participants. Such considerations include: strategy; fees and other expenses, and the nature and duration of any liquidity restrictions; the participants' and beneficiaries' ability to access funds in their accounts (*e.g.,* loans, and separation); and their ability to potentially change investment selections on a frequent basis. In general, to make such a selection, the Department concluded ''the fiduciary must engage in an objective, thorough, and analytical process that compares the asset allocation fund with appropriate alternative funds that do not include a private equity component, anticipated opportunities for investment diversification and enhanced investment returns, as well as the complexities associated with the private equity component.'' [103] The Department stated at the time that the letter, ''should assure defined contribution plan fiduciaries that private equity may be part of a prudent investment mix and a way to enhance retirement savings and investment security for American workers.'' [104]

12.3.2. 2021 Guidance

In December 2021, the Department issued a supplemental statement, clarifying its interpretation of the June 2020 Information Letter. The statement noted that the Information Letter did not endorse or recommend the use of private equity investments in defined contribution plans, but rather highlighted issues surrounding these investments that can complicate their inclusion in individual account menus. The Department additionally stated, in response to questions from stakeholders following the letter's publication as well as a ''Risk Alert'' issued by the staff of the Securities and Exchange Commission's Office of Compliance Inspections and Examinations regarding compliance issues in examinations of registered investment advisers that manage private fund assets,[105] that ''it should supplement the Information Letter to ensure that plan fiduciaries do not expose plan participants and beneficiaries to unwarranted risks by misreading the letter as saying that [private equity]—as a component of a designated investment alternative—is generally appropriate for a typical 401(k) plan.'' [106] In particular, the Department warned that plan-level fiduciaries of small, individual account plans are unlikely to have adequate experience to analyze and evaluate the use of private equity as a designated investment alternative in these types of plans and reiterated plan fiduciaries' duties of prudence and loyalty when selecting and monitoring investment options or service providers.[107]

Additionally, in March 2022, the Department issued sub-regulatory guidance cautioning plan fiduciaries to exercise extreme care before considering adding an option containing cryptocurrency to a 401(k) plan's menu.[108] In the guidance, the Department expressed concerns related to the prudence of fiduciaries including cryptocurrencies or other products whose value is tied to cryptocurrencies as investment options. The Department further warned that ''plan fiduciaries responsible for overseeing such investment options or allowing such investments through brokerage windows should expect to be questioned about how they can square their actions with their duties of prudence and loyalty in light of the risks described above.'' [109]

12.3.3. 2025 Guidance

In May 2025, the Department rescinded the 2022 cryptocurrency guidance, noting that it had imposed a standard of ''extreme care'' which ''is not found in the Employee Retirement Income Security Act (ERISA) and differs from ordinary fiduciary principles thereunder.'' [110] By rescinding the prior guidance, the Department reasserted its position that section 404(a)(1)(B) of ERISA does not require or restrict any specific type of designated investment alternative, except insofar as a designated investment alternative might be otherwise illegal, and that, in keeping with the decision from *Fifth Third Bancorp* v. *Dudenhoeffer,* when

[102] U.S. Dep't of Labor, Employee Benefits Security Admin., Information Letter 06–03–2020, (June 2020), *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020.*

[103] *Id.*

[104] *Id.*

[105] Risk Alert, *Observations from Examinations of Investment Advisers Managing Private Funds,* staff of the SEC Off. of Compliance Inspections & Examinations (June 23, 2020),), *https://www.sec.gov/files/Private%20Fund%20Risk%20Alert_0.pdf.*

[106] U.S. Department of Labor Supplement Statement on Private Equity in Defined Contribution Plan Designated Investment Alternatives (December 21, 2021), *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020-supplemental-statementDec.*

[107] U.S. Department of Labor Supplement Statement on Private Equity in Defined Contribution Plan Designated Investment Alternatives (December 21, 2021), *https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020-supplemental-statementDec.*

[108] U.S. Dep't of Labor, Employee Benefits Security Admin., Compliance Assistance Release No. 2022–01 (Mar. 10, 2022).

[109] Compliance Assistance Release No. 2022–01.

[110] Compliance Assistance Release No. 2025–01.

evaluating any particular investment type, a plan fiduciary's decision should consider all relevant facts and circumstances and will ''necessarily be context specific.'' [111]

The Department subsequently, and in a similar vein, rescinded the December 2021 supplemental statement on August 12, 2025, because the statement deviated from the Department's historically neutral and principles-based approach to fiduciary investment decisions creating a potentially costly chilling effect on the market.[112]

This current guidance, as well as existing applicable regulations discussed above in the Preamble, serves as the baseline for this proposed rule.

12.4. Summary of Impacts

In accordance with OMB Circular A–4, Table 1 depicts an accounting statement summarizing the Department's assessment of the benefits, costs, and transfers associated with this regulatory action.

The Department is unable to quantify all benefits, costs, and transfers of the rulemaking but has sought, where possible, to describe these non-quantified impacts. The effects in Table 1 reflect non-quantified impacts and estimated direct monetary costs resulting from the provisions of the proposed regulation.

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[111] *Fifth Third Bancorp* v. *Dudenhoeffer, 573 U.S. 409, 425 (2014).*

[112] *US Department of Labor Rescinds 2021 Supplemental Statement on Alternative Assets in 401(k) Plans, https://www.dol.gov/newsroom/releases/ebsa/ebsa20250812;see alsohttps://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020-supplemental-statement.*

Table 1.—Accounting Statement

Benefits:

Non-Quantified:

The Department expects that the proposed rule would lead to the following benefits:

- The process-based safe harbor provided by the proposed rule would decrease plan fiduciary uncertainty about whether they are satisfying their duty of prudence when making such a selection and reduce the associated litigation risks of that selection.
- The proposed rule would reaffirm that plan fiduciaries have the discretion to determine whether to include an investment as a designated investment alternative and would clarify that the Department is asset neutral. Removing stigma against certain investments or investment courses of action would free plan fiduciaries to prudently select any designated investment alternatives that improve risk-adjusted returns.
- By identifying relevant factors that plan fiduciaries should consider and by providing examples of how they might prudently consider such factors, the proposed rule would ensure that plan fiduciaries are better equipped to evaluate whether they should offer a designated investment alternative with alternative assets to plan participants and beneficiaries. As a result, the proposed rulemaking would increase protections for plan participants beneficiaries.

Costs:

Costs	Estimate	Year dollar	Discount Rate	Period Covered
Annualized Monetized	-$577. 9	2026	7 percent	2026-2035
($million/Year)	-$579.9	2026	3 percent	2026-2035

Quantified Costs:

The Department expects that entities will incur the following costs due to the proposed rule:

- Costs to plans and service providers related to reviewing the rulemaking, total $103.9 million in the first year.
- Costs to plans related to the provision of additional documentation from the independent fiduciary to the named fiduciary, total $1.1 million annually.
- Cost savings related to plans for the reduction of time spent preparing litigation analyses for Investment Committee Meetings, total -$117.8 million annually.
- Cost savings to plans related to the reduction of time spent presenting and discussing litigation analyses for Investment Committee Meetings total -$475.0 million annually.

Transfers:

Non-Quantified:

The Department expects that the proposed rule will lead to the following transfers:

- A transfer from fiduciary insurance underwriters to plans/plan fiduciaries via a stabilization or reduction of premiums and increase in coverage terms, including lower self-insured retentions.

• A transfer from financial institutions that sponsor stocks and bonds to financial institutions that sponsor alternative investments.
Perpetual Time Horizon Costs:
Annualized Cost (in 2024 dollars) (EO 14192 accounting): -$570.9 million

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12.5. Request for Comment

The Department invites comments addressing its estimates of the benefits, costs, and transfers associated with the proposed rulemaking, as well as any quantifiable data that would support or contradict any aspect of its analysis. Specifically, the Department requests comments on:

1. Whether the number of plans using a 3(21) or 3(38) fiduciary will increase under this proposed rule? If so, will this be for all plans or only plans of a certain size? How will this impact plan costs?

2. What share of defined contribution plans use off-the-shelf plan designs with set investment lineups? How does usage vary by plan size? Do these plans utilize 3(21) or 3(38) fiduciaries?

3. How would the proposed rule change fiduciary litigation? How would this affect the cost of fiduciary insurance and the scope of coverage (*e.g.,* lower self-insured retentions)?

4. How would the proposed rule affect how plan fiduciaries consider including alternative assets? Would they be more likely to include them in response to this proposal, and if so, in what form (*i.e.,* asset class, investment vehicle, etc.)?

5. What is the magnitude of financial benefits that will be reaped in connection with the increased use of alternative assets in products for defined contribution plans?

6. Are there any quantifiable risks or costs associated with the increased use of alternative assets in products for defined contribution plans that are not captured in this regulatory impact analysis? If yes, what is the magnitude of those risks or costs?

12.6. Affected Entities

The proposed rule would likely affect most participant-directed defined contribution plans as well as their participants and beneficiaries, as it broadly describes the factors a plan fiduciary must consider and make determinations on when selecting designated investment alternatives for a participant-directed individual account plan. However, effects on these plans could vary substantially. For instance, larger plans often use in-house expertise and hire outside ERISA counsel and investment advisers to provide additional information regarding investment options as part of their regular selection and monitoring processes. They would find these costs reduced as they simplify their processes under the safe harbor. Smaller plans, on the other hand, often rely on a service provider to design their plan's menu. In such cases, they likely would not utilize the proposed rule directly, though they may still be affected by the proposed rulemaking because many available investment funds would be designed to comply with the safe harbor. The Department anticipates that many service providers would also be affected by the proposed rule.

Beyond affecting how plan fiduciaries consider and make determinations when selecting designated investment alternatives, the proposed rule and its safe harbor would also result in expanded use of alternative assets within plan investment menus by clarifying the process and providing protections associated with the selection of investment options for participant-directed plans. Plans and participants who select these investments, and the financial institutions that develop and sell them, would experience further impacts from the proposal.

12.6.1. Plans Affected by Reduced Litigation Risk

The Department expects that many plans would benefit from increased clarity and certainty under the proposed rule by using the safe harbor it offers. In particular, by detailing an objective, thorough, and analytical process and means to demonstrate the prudent selection of investment offerings, the safe harbor would provide added protection from litigation risk to plan fiduciaries, including through a reduction in defense costs for frivolous litigation and corresponding lower fiduciary insurance premiums. In response, plans could reduce supplementary actions taken to forestall or defend against legal claims. For instance, plans could reduce costs associated with in-house staff hours or hiring outside professionals to monitor court cases and decisions related to investment selection, such as ERISA attorneys and investment managers.

The Department assumes that some smaller plans use ''off-the-shelf'' products that include simple, pre-designed menus that they purchase from a service provider.[113] In general, plan fiduciaries for these types of plans likely would not use the safe harbor directly, as they rely on appointed qualified professionals for expert advice and recommendations. However, these plans would still be affected by the proposed rule. As more investment products are developed that comply with the safe harbor, these plans may adopt them as well. It is also possible that their 3(21) or 3(38) adviser may modify their fee structure or recommend changes to their menu because of the overall market effects resulting from the proposed rule.

In 2023 there were approximately 721,000 participant-directed individual account plans, with about 118 million total participants and more than $8.8 trillion in assets.[114] The Department assumes that 85 percent of these plans, or about 613,000 plans, rely on service providers to guide the plan fiduciary.[115]

[113] Elizabeth Harris, *No Matter How Small, Businesses Have Retirement Plan Options,* PlanSponsor (Sept. 3, 2024), *https://www.plansponsor.com/in-depth/no-matter-how-small-business-have-retirement-plan-options/.*

[114] EBSA tabulations based on data from U.S. Dep't of Labor, EBSA, *Private Pension Plan Bulletin Abstract of 2023 Form 5500 Annual Reports,* Table D5 (Sept. 3, 2024), *https://www.dol.gov/agencies/ebsa/researchers/statistics/retirement-bulletins/private-pension-plan.*

[115] The Department assumes that 85 percent of plans will rely on service providers to review and act in the new rule. The remaining 15 percent are assumed to react at the plan level once the rulemaking is finalized. These estimates are based on 5 years of data from the PSCA Annual Survey of Profit Sharing and 401(k) Plans, where an average of roughly 84 percent of surveyed plans (which the Department rounds to 85 percent) indicated they used outside advisers to manage fiduciary matters.

12.6.2. Plans That Would Hold New Alternative Investments

The Department anticipates that the proposed rule would lead many individual account plans to adopt new menu options that include alternative investments. While such assets may appear directly as an option on the menu depending on the alternative, a more likely scenario, consistent with the assumptions in Executive Order 14330, is that these alternatives would be included as one part of a menu option. For example, a target date fund might include an annuity feature or an asset allocation fund might invest a portion of its assets in private equity. Similarly, some plans might offer professionally managed accounts that incorporate alternative investments on the glide paths customized for participants. The Department seeks information on what types of vehicles plans would use to offer alternatives and how they would work. The Department anticipates that the main channel through which this proposal would lead to greater defined contribution plan investment in alternative assets would be within target date funds. Therefore, for purposes of quantifying the effects of this proposal leading to greater investment in alternatives, the Department focuses on the target date fund avenue exclusively.

In many respects, offering alternative investments as a portion of a target date fund or other asset allocation fund is an effective way for participant-directed individual account plans to include more sophisticated investment products with the potential to increase risk-adjusted returns on investment. Such an arrangement would permit fiduciaries with concerns about the liquidity and pricing considerations of alternative assets to have them combined with more liquid assets from public markets. This would allow fiduciaries to use the liquid assets from the asset allocation pool, as well as possible inflows, to mitigate any liquidity concerns arising from potential outflows.

Target date funds play a vital role in retirement plans. About 90 percent of large, participant-directed defined contribution plans reported having a target date fund on their Form 5500 filing for 2023.[116] Similarly, a survey conducted by the Plan Sponsor Council of America (PSCA) showed that about 85 percent of all plans offered a target date fund in 2024, though plans with fewer than 50 participants were significantly less likely to offer target date funds, with only about 66 percent reporting them in 2024.[117] Most plans with automatic enrollment use a target date fund as their default investment, which results in a substantial number of participants holding these funds.[118] According to administrative data from Vanguard, about 84 percent of participants in defined contribution plans used target date funds in 2024.[119] Similarly, in 2022 approximately 68 percent of 401(k) participants in the EBRI/ICI 401(k) database held target date funds.[120]

Plans periodically select new investments. At the juncture when a plan fiduciary chooses a new target date fund, it may consider selecting a fund that includes alternative investments. Examining data in this area provides a general sense of how rapidly target date funds with alternatives would be adopted by plans under the proposed rule. The Department estimates that every year, across the roughly 721,000 plans affected by the proposed rule, there would be approximately 51,307 instances when a target date series with alternative investments is added to a menus.[121] Each year this would impact an estimated 47,333 plans because some plans adopting these target date funds with alternative investments would add multiple series.[122] These plans would, in aggregate, have about $178 billion and 4.5 million participants flowing each year into target date funds with alternative investments. While the Department estimated these figures using the detailed data available for large 401(k) plans, it extrapolated the results to the whole population of affected plans, including small plans, non-401(k) plans, and plans with missing data.

In generating these estimates, the Department assumes that plans will continue to adopt new target date funds at the current pace. It is possible, however, that under the proposed rulemaking plan fiduciaries would adopt new target date funds more rapidly, including because they wish to offer alternative investments to their participants.

In order to estimate how many assets and participants would be invested in target date funds with alternative investments, the Department applies estimates observed in the baseline for target date funds generally. The Department assumes that 30 percent of plan assets are invested in a target date fund.[123] However, it is difficult to estimate the share of participants eligible for a participant-directed defined contribution plan who would have an account balance and who would allocate at least some of it to a target date fund. Therefore, the Department assumes that 50 percent of plan participants would invest in a target date fund conditional on it being offered on the menu to generate these estimates. The Department requests information on the assumptions made and estimates developed.

When considering the future path for alternative investments in participant-directed individual account plans, the Department must predict how many plans would adopt alternative investments as a result of the proposal. This requires quantifying how many target date funds would adopt alternative investments under the proposal in comparison to the baseline. It is difficult to know how many target date funds are investing in alternatives in the baseline, but the figure appears to be relatively low. It is also uncertain how many target date funds would invest in alternatives under the proposal. As a result, the Department is illustrating the potential effects by assuming that in instances when a plan adopts a new target date fund, it is 50 percentage points more likely to include investments in alternatives than in the baseline. This assumption encompasses all of the alternative investments referred to in Executive Order 14330, including private market investments, real estate, digital assets, commodities, infrastructure, and lifetime income investment strategies.[124] The Department requests comments on these assumptions.

The Department arrived at this assumption due to the range of responses in surveys exploring this issue. On the low end, a survey by PSCA in 2024 found that only 6 percent of respondents had or were considering adding private equity to their menu, and

[116] EBSA tabulations of audited plans in the BrightScope database.

[117] PSCA, *68th Annual Survey: The Source for 401(k) Plan Benchmarking Data,* Table 81 (2025).

[118] *Id.,* Tables 100 and 128.

[119] Vanguard, *How America Saves,* Figure 79 (2025), *https://workplace.vanguard.com/insights-and-research/report/how-america-saves-2025.html.*

[120] Sarah Holden, Steven Bass & Craig Copeland, *401(k) Plan Asset Allocation, Account Balances, and Loan Activity in 2022,* EBRI Issue Brief No. 606 (Apr. 30, 2024), *https://www.ebri.org/content/401(k)-plan-asset-allocation-account-balances-and-loan-activity-in-2022.*

[121] EBSA tabulations of audited plans in the BrightScope database. Data is only available for large 401(k) plans that have filed a Form 5500 whose investment data has been captured on the Schedule H's attached Schedule of Assets. The estimate includes instances where plans adopt a new TDF to replace an existing TDF, instances where plans are adding another TDF to their menu, and instances where a newly formed plan offers a TDF on its menu.

[122] *Id.*

[123] EBSA tabulations of audited plans in the BrightScope database.

[124] 90 FR 38921 (Aug. 7, 2025).

only 7 percent had or were considering other alternatives.[125] On the high end, a 2025 survey by Empower found that 72 percent of plan sponsors were actively discussing adding private market investments to defined contribution retirement plans with advisers and consultants, and that 96 percent would likely add private market investments if fiduciary and regulatory guidance were clarified.[126] Between these estimates, a BlackRock 2025 survey [127] found that 24 percent of plan sponsors were considering adding alternative investments to their plan, while a Goldman Sachs 2025 survey [128] found that 42 percent of plan sponsors were considering adding private market offerings.

12.6.3. Service Providers

Service providers play an important role in retirement plan administration and informing and assisting the plan's named fiduciary. For the purpose of estimating the effects of this proposed rulemaking, these parties include 3(21) Investment Advisers, 3(38) Investment Managers, qualified professional asset managers (QPAMs), SEC-registered investment advisers (RIAs), and broker-dealers. This group of investment and retirement professionals allow plans to reduce the cost of plan administration by leveraging the expertise of service providers, who spread the cost of their expertise across the many plans they service. It is important to take these arrangements into account when estimating the costs and benefits of proposals, both at the plan level and in aggregate.

Based on survey data from PSCA spanning their 2021–2025 reports, the Department assumes that roughly 85 percent of defined contribution plans rely on outside service providers to guide the plan's named fiduciary.[129] The Department estimates the number of relevant service providers for this analysis to be approximately 5,350 entities.[130] The Department requests comments on these estimates.

12.6.4. Financial Institutions

Some financial institutions that develop and market products for retirement plans would also be affected by the proposal. Under the proposed rule, firms that sponsor target date funds that include alternative investments may have increased sales. Relatively few firms currently offer target date funds with alternative asset exposure, but the Department expects that the additional clarity provided by this proposal and its accompanying safe harbor will lead to additional firms providing such products. The Department estimates that 56 firms currently provide target date funds, with and without alternative assets, to participant-directed defined contribution plans.[131] As an upper-bound, the Department assumes that all these firms would be affected.

Additionally, insurance companies that market life annuity products would see an increase in demand. The Department estimates that there are 582 life insurers writing annuities in the group market that may be affected.[132]

Some private equity firms and hedge funds, as well as some firms that market investments related to digital assets, may also see increased investment in their products. The Department is unaware of data that would allow it to estimate the number of entities in these categories. It requests information on the number and characteristics of firms that would market to participant-directed defined contribution plans under the proposal.

Insurance companies that provide fiduciary insurance would also be affected by the proposal if reduced litigation risk leads plan fiduciaries to purchase less insurance or if premiums are driven down. However, the Department could not find sufficient data to estimate the number of these entities. The Department requests comments providing additional research or data that could be used to estimate how many of these entities there are and what percentage of them work with participant-directed defined contribution plans.

12.6.5. Summary

The Department's estimates for the number of affected entities are displayed in Table 2 below. The Department requests information on the quantities and characteristics of the entities that would be affected by the proposal.

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[125] PSCA, *Plan Sponsor Interest in Alternatives, Private Equity, ESG, and More,* Question of the Week (Nov. 18, 2024), *https://www.psca.org/news/psca-news/2024/11/plan-sponsor-interest-in-alternatives-private-equity-esg-and-more.*

[126] Empower, *Empower Survey Finds Employers Ready to Add Private Market Investments to Retirement Plans* (Sept. 25, 2025), *https://www.empower.com/press-center/empower-survey-finds-employers-ready-add-private-market-investments-retirement-plans.*

[127] BlackRock, *2025 Read on Retirement Survey,* Retirement Perspectives (2025), *https://www.blackrock.com/us/financial-professionals/practice-management/defined-contribution/insights/retirement-survey.*

[128] Goldman Sachs Asset Mgmt., *Retirement Survey and Insights Report 2025* (2025), *https://am.gs.com/en-us/institutions/insights/report-survey/retirement-survey.*

[129] See PSCA, *64th Annual Survey of Profit Sharing and 401(k) Plans* (2021); PSCA, *65th Annual Survey of Profit Sharing and 401(k) Plans* (2022); PSCA, *66th Annual Survey of Profit Sharing and 401(k) Plans* (2023); PSCA, *67th Annual Survey of Profit Sharing and 401(k) Plans* (2024); and PSCA, *68th Annual Survey of Profit Sharing and 401(k) Plans* (2025).

[130] The Department is aware that the entity definitions often overlap. At the same time, an entity frequently serves in multiple capacities in practice. The Department took these factors into consideration, as well as data trends in the Form 5500, when it developed this estimate of the number of service providers.

[131] EBSA tabulations of audited plans in the BrightScope database.

[132] The 2022 Statistics of U.S. Businesses states that there are 910 direct life insurance carriers. Only life insurers that provide group annuities would be affected by the proposal. According to the National Association of Insurance Commissioners 2024 Market Share Report, only 64 percent of the top 125 life insurance companies are in the group annuity market. The Department assumes that this proportion also applies to small life insurers, which means it estimates that there are 582 life insurers writing annuities in the group market. U.S. Census Bureau, *2022 SUSB [Statistics of U.S. Businesses] Annual Data Tables by Establishment Industry* (Aug. 4, 2025), *https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.htmlNat'l.* Ass'n of Ins. Comm'rs, *2024 Market Share Reports for the Top 125 Life and Fraternal Insurance Groups* (2025), *https://content.naic.org/sites/default/files/publication-msr-lb-life-fraternal.pdf.*

Table 2.—*Affected Entities Summary*

Description	Assumption/Estimate
All Participant-Directed DC Plans	
Number of Plans	721,000
Participants	118 million
Assets	$8.8 trillion
Plans Adding Target Date Funds with Alternative Assets Each Year	
Number of Plans flowing in annually	47,333
Participants flowing annually into target date funds with alternative investments	4.5 million
Assets flowing annually into target date funds with alternative investments	$178 billion
Other Affected Entities	
Number of Service Providers[1]	5,350
Target Date Fund Providers to Participant-Directed DC Plans	56
Life Insurers Underwriting Group Annuities	582
Unquantified Affected Entities	
• Private Equity Firms and Hedge Funds • Firms Marketing Investments Related to Digital Assets • Insurance Companies Selling Fiduciary Insurance	

[1] This calculation includes all QPAMS, 3(21) and 3(38) advisers, and Plan Administrators. The estimate also includes the 50 percent of broker-dealers that the Department assumes work with participant-directed defined contribution plans. Due to uncertainty, this estimate is rounded to the nearest 25.

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12.7. Benefits

The proposed rule and safe harbor would provide clarity to defined contribution plan fiduciaries on how to satisfy their obligation of prudence when selecting individual investments within a plan menu. By describing an objective, thorough, and analytical process to evaluate and determine the selection of an investment that is neutral across product types, the Department believes the proposed rule will enable responsible plan fiduciaries to consider all prudent and appropriate investment vehicles and confidently make menu selections that will improve retirement savings outcomes for plan participants and beneficiaries.

The discussion below identifies the major benefits the proposed rule is expected to generate. The Department welcomes comments on the identified benefits, the Department's characterizations of those benefits, and any additional benefits the Department should consider. The Department would also appreciate comments providing additional research, data, and anecdotal evidence.

12.7.1. Decreased Uncertainty and Litigation Risk for Plan Fiduciaries

As discussed in the Need for Regulatory Action section, defined contribution plans have faced an increased number of, often frivolous, class action lawsuits. The 1979 Investment Duties Regulation states that plan fiduciaries must follow a prudent process and give appropriate consideration to the relevant facts and circumstances in their consideration of a designated investment alternative. However, what would be deemed a prudent process or appropriate consideration depends on the specific facts and circumstances of the investment and plan characteristics. The context-specific nature of the duty of prudence therefore exposes plan fiduciaries to heightened litigation risk from plaintiffs' attorneys.

The proposed rule addresses this concern by establishing a process-based safe harbor for plan fiduciaries selecting a designated investment alternative for a menu. Accordingly, the proposed rule would decrease plan fiduciary uncertainty about whether they are satisfying their duty of prudence when making such a selection. The proposed rule would reestablish that plan fiduciaries have the discretion to determine whether to include an investment as a designated investment alternative without fear of facing litigation, provided they follow the prudent process described in the safe harbor.

The Need for Regulation section discussed the Department's concern that the flexibility of ERISA's standard of prudence has been exploited in lawsuits alleging imprudent selection. As discussed below, there is evidence to suggest that the perceived risk of litigation has affected how plan fiduciaries select investments and potentially deterred plan fiduciaries from selecting investments that they would otherwise consider appropriate and whose inclusion would benefit plan

participants and beneficiaries financially.

In September 2025, a survey conducted by the American Benefits Council investigated how litigation risks affect the actions of plan sponsors and service providers. They received responses from 119 of their plan sponsor and service provider members, of which 98 percent of plan sponsors and 80 percent of service providers served defined contribution plans.[133] Most defined contribution plan sponsors (94 percent) and service providers (96 percent) surveyed expressed concern about retirement plan litigation, with 51 percent of plan sponsors and 57 percent of service providers considering it to be a ''very significant concern.'' [134] Further, the survey found that this concern has affected offerings in plans. For instance, 38 percent of defined contribution plan sponsors and 61 percent of service providers decided against offering services or investment options due to the risk of litigation over fund fees. Similarly, 29 percent and 61 percent of the surveyed defined contribution plan sponsors and service providers, respectively, decided against offering services or investment options due to the perceived litigation risk of being an early adopter.[135]

The concern surrounding litigation risk for plan sponsors is not unwarranted. Over 500 excessive fee cases have been filed since 2016 with over $1 billion paid in litigation settlements by plan sponsors.[136] A review of ERISA class action litigation between 2020 and 2024 found a ''sustained high volume of lawsuit filings, a continued focus on excessive fees and investment underperformance, and a pattern of multi-million-dollar settlements. These trends reflect both the maturation of plaintiffs' legal theories and the substantial financial risk that allegations of fiduciary mismanagement pose to plan sponsors and fiduciaries.'' [137]

Gropper (2023) specifically considered the effect of litigation on menu options. Following the 2015 Supreme Court ruling in *Tibble* v. *Edison International,* which emphasized a fiduciary's ongoing duty to monitor plan investments, the number of lawsuits related to inappropriate investment choice and excessive fees increased. Gropper used the timing of the ruling to construct a difference-in-differences analysis to assess how increased litigation risk affects menus.

Gropper relied on menu data from the Institutional Shareholder Services BrightScope database between 2006 and 2019. Following legal observers' opinions that large plans with $1 billion or more in assets were most frequently targeted with litigation, Gropper found that these large plans reduced the number of investment options on their plan menus after the 2015 ruling. Specifically, he found that such plans were 2.8 percentage points less likely than smaller plans to include a given asset investment option after the ruling. Moreover, he found that a 10 percentage point increase in the likelihood of being sued was associated with a 3.5 percentage point decrease in the likelihood of offering a high volatility investment option.[138] Further, he estimated that limiting access to such investments was associated, on average, with a 3 percent reduction in account values of participants and beneficiaries of that plan. The author does acknowledge that large plans likely began adjusting menus prior to the 2015 ruling, cautioning that the analysis may underestimate the effect.[139]

The Department expects that the process-based safe harbor provided in the proposed rule would decrease the litigation risk faced by plan fiduciaries, freeing those fiduciaries to select additional investment options that in turn increase risk-adjusted return on investment, net of fees, for participants and beneficiaries. The Department has discussed the litigation risks faced by plan fiduciaries in greater detail in the Need for Regulation, Costs, and Transfers sections of this analysis.

12.7.2. Increased Protection for Plan Participants

The 1979 Investment Duties Regulation requires that plan fiduciaries give appropriate consideration to the facts and circumstances that a fiduciary knows or should know are relevant to the investment.[140] The proposed rule and safe harbor identify a non-exhaustive list of factors that a plan fiduciary responsible for establishing and maintaining a menu of designated investment alternatives for participant-directed individual account plans should consider when selecting investment options. These factors include: performance, fees, liquidity, valuation, performance benchmark, and complexity. While these six factors are not exhaustive of all aspects of a given investment that might impact whether its selection and inclusion on a plan's menu is prudent, the Department determined that these factors warranted inclusion in the safe harbor after a comprehensive review of pertinent case law, existing regulations, previous subregulatory guidance, Executive Order 14330, and valuable stakeholder input.

By following the process described in the safe harbor to objectively, thoroughly, and analytically consider and make determinations on those factors, either directly, or through their prudently selected and delegated agents for each investment option considered, plan fiduciaries can be assured that selected investment options meet the standard of prudence. As a result, plan participants can be confident that they have access to designated investment alternatives that promote income generation while meeting plan participant and beneficiary needs with respect to risk, liquidity, and price transparency. Although not explicitly required by it, the proposed regulation's safe harbor factors and examples necessarily require product vendors to be transparent with named fiduciaries and their expert intermediaries, if applicable, about rights, benefits, and features of designated investment alternatives.

Alternative assets can be complicated and require particularized analysis to understand their liquidity, valuation, and fees. For instance, while most publicly traded equities have

[133] When considering these results, it is important to note that this survey is not based on a representative sample; however, the responses provided strongly suggest that fear of litigation risk is driving investment options in defined contribution plans.

[134] *Id.*

[135] Courtney Zinter, Am. Benefits Council, *American Benefits Council Survey Finds: The Proliferating Risk of Baseless Retirement Plan Litigation is Harming Plan Participants and Retirement Security* (Oct. 2, 2025), *https://www.americanbenefitscouncil.org/pub/?id=80095a3f-cbb8-e46c-854f-a475d2c68358.*

[136] PSCA, *What Recent Developments in Litigation and DOL Enforcement Means for Plan Sponsors* (May 1, 2025), *https://www.psca.org/news/psca-news/2025/4/what-recent-developments-in-litigation-and-dol-enforcement-mean-for-plan-sponsors/.*

[137] Vahick A. Yedgarian & Ram Paudel, *Quantitative Analysis of Damages in ERISA Fiduciary Breach Litigation,* Fin. & Inv. Plan. Educator eJournal 1 (Sept. 9, 2025).

[138] In this study, high volatility investment options include the following asset classes: domestic equity broad market, domestic equity mid cap, domestic equity small cap, domestic equity commodities, domestic equity financials, domestic equity natural resources, domestic equity gold, domestic equity real estate, domestic equity technology, domestic equity income, foreign equity broad market, foreign equity small cap, foreign equity emerging markets, foreign equity natural resources, and foreign equity real estate.

[139] Michael Gropper, *Lawyers Setting the Menu: The Effects of Litigation Risk on Employer-Sponsored Retirement Plans* (Aug. 2025), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4393420.*

[140] 29 CFR 2550.404a–1.

continuous valuations based on observable market prices, alternative investments, such as private equity funds, are often valued on a quarterly basis utilizing net asset value estimates reported by the fund itself. Such investments require an appropriate valuation process to ensure the accuracy of transaction prices used when investors need to sell shares. Similarly, 401(k) and other defined contribution plans may have liquidity requirements to, for example, address participant loans and withdrawals from the plan. However, alternative investments, such as private debt, private real estate, and private equity, often require multi-year investment horizons which can limit investors' access to their funds outside of set windows. Moreover, alternative investments tend to be associated with higher, more complex fee structures. While returns for alternative investments may be sufficient to justify these fees, their net returns can be hard to compare to traditional investments due to customizable fee structures.[141] When these products are incorporated carefully and intentionally, such risks can be mitigated.

There is significant uncertainty as to how the proposed rule would affect the types of designated investment alternatives offered by plans. However, as discussed in the Affected Entities section, one likely area where alternative assets might become more prevalent is through target date funds with alternative asset exposure. Antonelli (2025) estimated that, as of December 31, 2024, the five largest target date fund providers allocated less than five percent of assets to asset classes other than traditional public equity and debt.[142] For target date fund providers hoping to offer target date funds with alternative assets in the future, the proposed rule provides a roadmap of what factors and risks they should consider in new products that they hope to sell as designated investment alternatives. Accordingly, the proposed rule would encourage financial institutions to design new products that are consistent with the factors described in paragraphs (*g*) through (*l*) of the proposed rule and that are appropriate for defined contribution plans and their participants and beneficiaries.

By identifying relevant factors that plan fiduciaries should consider and by providing examples of how they might prudently consider those factors, the Department is ensuring that plan fiduciaries are better equipped to evaluate whether and to what extent they should offer a designated investment alternative with alternative assets to plan participants and beneficiaries. As a result, the proposed rulemaking would increase protections for plan participants and beneficiaries while simultaneously providing them with exposure to investment options with higher risk-adjusted returns net of fees.

12.7.3. The Benefit of Confirming a Neutral Stance on Investments

As discussed in the Need for Regulation section, ERISA does not restrict plan fiduciaries from considering any type of investment or any asset class. Removing the stigma against certain asset classes [143] would free plan fiduciaries to consider a wider range of investment opportunities for plan participants and beneficiaries. Consequently, plan fiduciaries would have more opportunities, through additional diversification, to help improve risk-adjusted returns for plan participants and beneficiaries.

Modern Portfolio Theory provides a helpful framework for considering the benefits of removing investment constraints. Under Modern Portfolio Theory, investors construct a set of risky asset portfolios that have the highest expected return for each risk level. The set of portfolios is visually represented as a curved line, where the vertical axis shows the portfolio's expected returns and the horizontal axis shows the portfolio's risk, measured as its standard deviation. This curve is known as the efficient frontier of risky assets, and the optimal risky portfolio is the portfolio on the efficient frontier that offers the highest risk-adjusted return. When investment constraints are imposed, the efficient frontier typically shifts downward and to the right.[144] This means that, in general, the optimal constrained portfolio will have lower risk-adjusted returns than that of an unconstrained portfolio and that, by removing constraints, retirement investors may have access to designated investment alternatives that have higher risk-adjusted returns.

While the proposed rule provides plan fiduciaries with a detailed approach to satisfy their fiduciary obligations when selecting *any* designated investment alternative, Executive Order 14330 focused specifically on alternative assets. The following discussion explores how removing constraints on alternative assets may benefit retirement investors.

12.7.3.1. What Alternative Assets Can Contribute to a Portfolio

As discussed in the Regulatory Baseline section, plan fiduciaries have historically received conflicting signals from the Department, in subregulatory guidance, on whether offering a designated investment alternative that includes alternative assets is consistent with a fiduciary's duty of prudence. Statements made by industry members suggest that this regulatory ambiguity, in combination with increasing litigation risk, has made plans reluctant to offer alternative investments.[145]

For example, in 2024 only 0.1 percent of defined contribution plan assets were in alternative investments.[146] While not an apples-to-apples comparison,[147] Cerulli reported that in 2023, 24.3 percent of state and local defined benefit assets, 23.8 percent of multi-employer defined benefit assets, and 14.9 percent of single-employer defined benefit assets were invested in private markets, accounting for just a subset of the larger alternative asset category.[148] It is important to note that defined benefit plans and defined contribution plans have different characteristics, including different funding mechanisms,

[141] Alternative funds often pay performance fees with many permutations based on the hurdle rate, claw back provisions, and whether the fees are based on each deal in a fund or calculated in aggregate.

[142] Angela Antonelli, *Making the Case: The Effect of Private Market Assets on Retirement Income in Cases of Disrupted Savings* (Aug. 2025), *https://cri.georgetown.edu/wp-content/uploads/2025/08/Effect-of-private-market-assets.pdf.*

[143] For more information on the stigma, refer to section 7.1, ''Decreased Uncertainty and Litigation Risk for Plan Fiduciaries.''

[144] Zvi Bodie, Alex Kane & Alan Marcus, Investments (9th ed. 2011).

[145] Comm. on Capital Mkt. Regul., *Expanding Opportunities for U.S. Investors and Retirees: Private Markets* (Aug. 2025), *https://capmktsreg.org/wp-content/uploads/2025/08/CCMR-Expanding-Access-to-Private-Markets-08.07.25-Final.pdf.*

[146] Jessica Hall, *Private Equity in 401(k) Plans? Highly Risky for the Average Investor,* MarketWatch (Jan. 11, 2025), *https://www.morningstar.com/news/marketwatch/20250111254/private-equity-in-401k-plans-highly-risky-for-the-average-investor.*

[147] Interestingly, this has not stopped plaintiffs from faulting plan fiduciaries for not employing the investment strategies that are commonly used in defined benefit plans. *See, e.g.,* First Am. Compl. 189(H), *Beesley* v. *Int'l Paper Co.,* No. 3:06-cv-00703-DRH-SCW (S.D. Ill. May 1, 2008), ECF No. 169; Pls.' Mem. in Opp. to Defs.' Mot. for Summ. J. at 5, *Moreno* v. *Deutsche Bank Ams. Holding Corp.,* No. 1:15-cv-09936-LGS (S.D.N.Y. Mar. 5, 2018), ECF No. 192.

[148] Cerulli Assocs., *Unlocking the Potential of Private Investments in Defined Contribution Plans: Leveraging Familiar Solutions to Provide Access to Private Market Exposures,* Exhibit 2 (Sept. 2025), *https://www.partnersgroup.com/~/media/files/p/partnersgroup/universal/perspectives-document/20251015-partners-group-unlocking-private-investments-in-dc-plans.pdf.*

investment time horizons, liquidity needs, and risk considerations. Therefore, investments and investment courses of action that are appropriate for defined benefit plans may not be appropriate for defined contribution plans. However, as summarized by SEC Commissioner Uyeda (speaking in his personal capacity):

> While there might be debate on what is the optimal level of exposure to private investments, what is clear is that the answer is NOT zero. Regulation should not presume that zero percent exposure is inherently safer or preferable. The absence of access is not the same as the presence of protection. A blanket exclusion from defined contribution plans denies both investment professionals and investors alike the ability to make informed choices about risk and reward.[149]

Executive Order 14330 defines alternative assets to include private market investments, real estate, digital assets, commodities, infrastructure, and lifetime income investment strategies.[150] There is significant variability in the return and risk characteristics of the asset classes within the broader category of alternative assets. Consequently, each would play a different role within a portfolio. This analysis does not attempt to discern whether alternative assets overperform or underperform traditional assets but rather explores how alternative assets may contribute to an investment portfolio through returns and diversification.

12.7.3.1.1. Challenges to Comparing Alternative Asset Performance

The complexity of alternative assets can make comparing performance across different asset classes more challenging. For example, private market investments and real assets do not have a market price, which means investors must rely on relatively infrequent fair market value assessments. Because alternative investments' prices are not subject to market price fluctuations, they may appear to have artificially low volatility. This results in what is often called return ''smoothing.'' PitchBook warns that if adjustments are not made to account for the smoothing of returns, ''private market asset classes will appear more attractive on a risk-adjusted basis because of the understated volatility measures.'' [151]

Further complicating comparisons, private and public fund performance are often reported using different metrics. Public funds typically report a time-weighted return, or a compounded growth rate over a specified time period. Time-weighted returns do not consider the effects of cash flows on returns, which is appropriate for public funds as investors, but not for fund managers that control the cash flows into and out of the fund. However, in many private funds, the investor receives cash flows based on the decisions of the asset manager. Therefore, a capital-weighted return method is more appropriate for a private fund.[152]

The CFA Institute's Global Investment Performance Standards require that returns for private equity be expressed as the internal rate of return (IRR),[153] a type of capital-weighted return that calculates the return rate necessary to equate the invested capital with the present value of the assets. While the IRR is one of the most commonly referenced performance measures for private funds, it is important to note that it is not directly comparable to a time-weighted return. The IRR is a simple and imperfect measure, and as a result, the research community and industry have developed additional performance metrics for private funds—such as:

(1) the public market equivalent (PME); [154]

(2) the modified IRR (MIRR) which adjusts for timing of investment flows;

(3) the multiple on invested capital (MOIC) which measures the total value returned to investor relative to the total capital invested; [155] and

(4) and the NAV-to-NAV IRR which measures the IRR based on the current net asset value (NAV), allowing for interim performance measures.[156]

Without a single accepted measure of return, it is even more difficult to compare performance across asset classes and studies.

Another complication in being able to compare alternative asset performance to traditional assets is the degree of performance dispersion among managers. As described by Soni (2020), while managers in traditional asset classes typically have a well-defined benchmark, this often is not the case for alternative asset managers. Even when using an alternative index, the underlying assets within the index are often not easily investable, meaning that an asset manager would not be able to easily invest in the same underlying assets and could not replicate the index. In addition, alternative asset managers are more likely to have less defined investment mandates. Consistent with these qualities, the study finds that performance dispersion within alternative asset classes is significantly larger than more traditional asset classes. As a result, it is more difficult to generalize performance, which makes asset manager selection more important for alternative asset investments than traditional investments.[157]

Finally, much of the research exploring the performance of alternative assets relies upon alternative asset indices. As discussed above, these indices are typically not investable, limiting their applicability to how incorporating alternative assets may actually affect risk-adjusted returns. In addition, as explained by Aubry (2025), private equity and hedge fund data is reported voluntarily to indices. As a result, indices are more likely to reflect better performers, who have an incentive to report. Moreover, failed funds are removed from indices, creating an inherent survivorship bias that over-weights better performing funds.[158]

The Department expects that further expansion of alternative investment in retirement plans depends on how and to what extent the financial markets can mitigate or overcome these issues. The most likely outcome would be plan sponsors choosing an option that allocates a small proportion of a fund to alternative assets to aid in diversification and potentially offer a higher expected risk-adjusted net return. Asset managers and fund providers will leverage the liquidity of traditional holdings to meet their liquidity needs and those of plan sponsors they service.

More established access to additional capital in retirement plans may entice asset managers to overcome some of the obstacles that cause a relatively higher risk premium when compared to traditional investments, such as illiquidity or information asymmetry.

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[149] Comm'r Mark T. Uyeda, *The Diversification Deficit: Opening 401(k)s to Private Markets* (Nov. 2025), *https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-diversification-deficit-opening-401ks-private-markets-112025*.

[150] 90 FR 38921 (Aug. 7, 2025).

[151] PitchBook, *Private Capital Indexes: Q2 2025* (Oct. 2025).

[152] Callan, *Private Equity Performance Measurement Requires Unique Calculations* (Oct. 2019), *https://www.callan.com/blog/pe-measurement/*.

[153] CFA Inst., *Guidance Statement on Private Equity,* 4–9 (2012), *https://www.gipsstandards.org/wp-content/uploads/2021/03/private_equity_gs_2012.pdf*.

[154] Ludovic Phalippou, *A Reality Check on Private Markets: Part II,* CFA Inst. (Nov. 8, 2024), *https://blogs.cfainstitute.org/investor/2024/11/08/the-tyranny-of-irr-a-reality-check-on-private-market-returns/*.

[155] *Id.*

[156] *Id.*

[157] Amit Soni, *Performance Dispersion Risk Assessment in Alternatives and Active Strategies,* J. Alternative Invs. (2020).

[158] Jean-Pierre Aubry, *Public Pension Investment Update: Have Alternatives Helped or Hurt?,* Ctr. for Ret. Rsch. at Bos. Coll., Issue in Brief No. 22–20 (Nov. 2022), *https://crr.bc.edu/wp-content/uploads/2022/11/IB_22-20-1.pdf*.

This may allow more alternative assets to be incorporated into plan investments and menus. As this market matures a new equilibrium should be reached where there is a larger pool of viable and vetted investments, expanded by alternative assets, for asset managers to offer to plan sponsors. The tradeoff for this increased market penetration is a reduction in illiquidity premium. As the risks associated with investment in alternative assets falls, so too does the risk premium investors in the assets will enjoy. A determining factor in the rate and magnitude of funds flowing into alternative asset classes via retirement plans is the ability for asset managers to provide options that are able to satisfy the process based standard to meet the monitoring and selection requirements set forth in ERISA.

12.7.3.1.2. Opportunities to Diversify Portfolio Risk

When considering an investment portfolio, it is important to consider the risk of an investment as well as the return. While a portfolio's return is equal to the weighted average of the returns of each asset in the portfolio, a portfolio's standard deviation—a common measure of portfolio risk—is less than the weighted average of each asset's standard deviation so long as the assets are not perfectly correlated. As summarized by Bodie, Kane, and Marcus, ''portfolios of less than perfectly correlated assets always offer better risk-return opportunities than the individual component securities on their own.'' [159] For this reason, diversification is one of the most important factors of portfolio management.

One of the reasons to include debt in a portfolio is to diversify public equity risk, but the relationship between public equity and debt is not constant. Brixton et al. (2023) analyzed the correlation of U.S. public equity and U.S. Treasury returns between 1900 and 2022.[160] While the returns of U.S. public equity and U.S. Treasuries have been negatively correlated for most of the 21st century, the returns were positively correlated for most of the 20th century. A study conducted by Morningstar in 2025 observed that since 2021, the correlation between U.S. stocks and bonds has once again been positive. The study observed that the U.S. economy has experienced low inflation and declining interest rates for decades, which has resulted in low or negative correlations between stocks and bonds. However, in recent years, the economy has seen rising inflation and interest rates, resulting in positive correlations once again. As a result, the diversification value of debt has decreased.[161] Brixton et al. (2025) summarized: ''If the performance of stock and bond allocations becomes more correlated, a 'third allocation'—one that is diversifying to both traditional asset classes—may be able to make up the diversification deficit.'' [162]

Morningstar's 2025 analysis considered correlations between a wider set of asset classes and the U.S. Stock Market. They found that high quality bonds (*e.g.,* government bonds or investment grade bonds) provide better diversification during periods of low economic growth but are more correlated with U.S. equity during inflationary periods. Conversely, high yield bonds are consistently highly correlated with U.S. equities, providing limited diversification. Beyond public equity and debt, the study finds that commodities have low correlations to most asset classes, particularly during inflationary periods. They note that cryptocurrency may also provide diversification benefits, although the authors caution that investors should be aware of the volatility of alternative investments.[163]

Morningstar noted that correlations between the U.S. market and private investment sectors vary over time, concluding that private investment markets may not provide reliable diversification to a portfolio.[164] As discussed above, private market returns reflect ''smoothing'' and as a result may appear to have lower volatility unless returns are adjusted. An analysis by PitchBook on the correlation between public and private market returns, adjusted for the smoothing effect of private markets found that between 2020 and 2025, private equity and private debt exhibited relatively strong correlation with U.S. and global equities and global high yield debt, while venture capital, real estate, and real asset investments were only moderately correlated.[165]

The diversification benefits of alternative assets can be observed in how they performed during market downturns. The table below shows estimated peak-to-trough drawdowns—or the percent loss from the highest price point (peak) to the lowest price point (trough)—for recent market downturns. During these time periods, alternative asset classes generally experienced a smaller loss than public markets, with the exception of real estate during the Great Financial Crisis.[166]

[159] Zvi Bodie, Alex Kane & Alan Marcus, Investments (9th ed. 2011).

[160] Generally during periods of growth, equity prices increase due to expected increases in future cash flows and bond prices fall due to expected increases in interest rates. Conversely, during recessionary periods, equity prices fall due to expected decreases in future cash flows and bond prices rise due to lower yields and investors seeking safer assets. In other words, the asset classes are negatively correlated. Whereas during periods of inflation, equity and debt generally have a positive correlation, as prices for both asset classes tend to decrease. *See* Alfie Brixton, Jordan Brooks, Pete Hecht, Antti Ilmanen, Thomas Maloney, & Nicholas McQuinn, *A Changing Stock-Bond Correlation: Drivers and Implications,* Journal of Portfolio Management, 2023 Multi-Asset Special Issue Vol. 49 Issue 4, pp. 64–80.

[161] Morningstar, *2025 Diversified Landscape* (Apr. 2025).

[162] Alfie Brixton et al., *Stock-Bond Correlation: Drivers and Implications,* J. Portfolio Mgmt., 2023 Multi-Asset Special Issue, Vol. 49, Issue 4, at 64.

[163] Morningstar, *2025 Diversification Landscape* (Apr. 2025).

[164] *Id.*

[165] PitchBook used a first order autoregression model to adjust private market returns smoothing. This accounts for the smoothing of private capital returns due to less frequent valuation.

[166] PitchBook, *Private Capital Indexes: Q2 2025* (Oct. 2025).

TABLE 3.—*Peak-to-Trough Drawdowns of Asset Class Indices in Select Periods* [a]

Asset Class	Dot-com Bubble	Great Financial Crisis	COVID-19 Pandemic
Public Markets			
S&P 500	-43.8%	-45.8%	-19.6%
Global Markets	-43.1%	-48.7%	-22.1%
Global High Yield	-8.2%	-26.9%	-13.8%
Alternative Assets			
Private Equity	-25.6%	-27.1%	-8.5%
Real Estate	-2.7%	-53.8%	-3.0%
Real Assets	-6.2%	-12.6%	-12.1%
Private Debt	-3.5%	-26.8%	-6.0%

Source: PitchBook, *Private Capital Indexes: Q2 2025* (October 2025).

[a] PitchBook used a first-order autoregression model to adjust private market returns smoothing. This accounts for the smoothing of private capital returns due to less frequent valuation.

[b] Private equity includes buyout, diversified private equity, growth and expansion, and restructuring and turnaround funds.

[c] Real estate includes pools of capital raised for the purpose of investing in the equity of properties that currently have or are intended to have tenants.

[d] Real assets include pools of capital raised for the purpose of investing in the equity of infrastructure, oil and gas, timber, metals and mining, agriculture and other natural resource assets.

[e] Private debt includes pools of capital raised for the purpose of lending to private companies, including those held by private equity funds, venture capital funds, real estate funds, and infrastructure funds.

While the performance and diversification benefits of adding alternative assets to a portfolio would depend on the asset itself, the macro-economic environment, and the characteristics of the rest of the portfolio, the research suggests that incorporating alternative assets may result in more resilient portfolios.

12.7.3.1.3. Opportunities To Enhance Portfolio Returns in Defined Contribution Plans

With the caveats discussed in section 12.7.3.1.1 in mind, the research literature suggests that alternative assets may offer opportunities to enhance risk-adjusted returns. Brown, Lundblad, and Volkmann (2025) analyzed the performance of nearly 8,000 private asset funds between 1988 and 2019 across seven common performance metrics.[167] They found that private equity funds generally have outperformed public equity on a risk-adjusted basis.[168] The exception was North American venture capital funds, which underperformed on a risk-adjusted basis despite high returns. Most measures also indicated that private debt funds earned positive excess risk-adjusted returns relative to the benchmarks,[169] although there was less consensus on the risk-levels of private debt funds among the measurements. The authors cautioned that most of the private credit funds in the dataset have not existed through an entire credit cycle and that their estimates may underestimate the riskiness of private credit funds.[170]

Expanding their analysis to real assets, the authors looked at the performance of private real estate and private infrastructure funds. They find that North American private real estate has performed comparably to North American public real estate on a risk adjusted basis, while private real estate in the rest of the world has underperformed public real estate markets.[171] When looking at infrastructure, they find that private infrastructure funds earned consistent excess risk-adjusted returns relative to

[167] To overcome some of the issues acknowledged in section 12.7.3.1.1., the authors considered how the asset classes performed across seven performance metrics: the multiple on investment capital, internal rates of return, the modified internal rates of return, the Kaplan-Schoar public market equivalent, Gredil-Griffiths-Stucke direct alpha, Korteweg-Nagel generalized public market equivalent, and estimates from the Brown-Ghysels-Gredil Now-Casting model. Returns were also adjusted to account for ''smoothing.''

[168] Private equity performance was benchmarked against the MSCI ACWI Gross Total Return Index for all geographies, CRSP value-weighted total market index for North American, and MSCI EAFE Gross Total Return Index for the rest of the world.

[169] Private debt performance was benchmarked against the Morningstar Global Leveraged Loan Return Index for all geographies, S&P UBS Leveraged Loan Index Total Return Unhedged Index for North America, and the Morningstar European Leveraged Loan Total Return Index for the rest of the world.

[170] Gregory Brown, Christian Lundblad & William Volckmann, *Risk-Adjusted Performance of Private Funds: What Do We Know?,* Inst. for Private Capital (Mar. 2025), *https://uncipc.org/wp-content/uploads/2025/03/Private-Risk-Adjusted-Returns-1.pdf.*

[171] Private real estate was benchmarked against the FTS EPRA NAREIT Developed Total Return Index for all geographies, and the Dow Jones U.S. Real Estate total Return Index for North America. The benchmark for private real estate in the rest of the world is inferred, assuming the U.S. represent half of the FTSE EPRA Nareit Index.

public infrastructure, across geographies, investment strategies, and performance metrics.[172] The authors attribute this to private infrastructure funds having lower risk than public market infrastructure indices.[173] While not all of the alternative asset classes overperformed their respective benchmarks, the study confirmed that there are return-enhancing opportunities in alternative asset funds.

As explained in paragraph (g) of the proposed rule, a plan fiduciary should focus on maximizing risk-adjusted returns, and it may be prudent to select a lower-risk investment strategy with lower expected returns, provided it furthers the purposes of the plan. As such, it is more important to consider how an alternative investment strategy may contribute to risk-adjusted portfolio returns, rather than focusing on the returns alone.

As there has been limited uptake in offering alternatives in defined contribution plans, studies analyzing the effect of adding alternative assets to these plans are limited to simulations. For example, in 2025, the Council of Economic Advisers simulated how removing constraints preventing retirement investors from investing in private equity could affect an individual's annuitized lifetime income.[174] With the estimated optimal portfolio allocation to private equity ranging from 23 percent for those under age 25 to 13 percent for those above age 65, the study found that the addition of private equity to the portfolio increased annuitized lifetime income by 1.3 percent across all age groups. The estimated annuitized income increase ranged from 2.5 percent for those under 25 and less than 0.5 percent for those over age 65.[175]

Similarly, Antonelli (2018) simulated how adding alternative assets to target date funds would affect retirement income outcomes.[176] The study constructed a baseline target date fund, invested in public equities, REITs, commodities, bonds, and cash, and then, to test the effect of adding alternative assets, constructed a ''diversified'' target date fund with exposure to private equity, real estate, and hedge funds. The diversified target date fund had similar risk levels along the glidepath of the baseline target date fund. Due to the diversification benefits of the alternative assets, a portfolio with an equivalent risk level was able to allocate more to return-seeking assets. By converting a participant's balance into a stream of income at retirement, Antonelli found that the inclusion of alternative assets into the target date fund increased the median annual retirement income by approximately 17 percent.[177]

In a later paper, Antonelli (2022) modified the previous analysis to be more consistent with the timing of introducing alternative assets. Acknowledging that plan sponsors would likely add alternative assets incrementally, the updated analysis considered the benefits of smaller allocations to alternative assets. She also changed the basket of alternative assets to better reflect investments that defined contribution plans might select, replacing hedge funds with private credit and replacing real estate with a broader category of real assets. She found that, even with more modest allocations to alternative assets across the glide path, including alternative assets improved the median annual retirement income by approximately 8 percent.[178]

Further building on this analysis, Antonelli (2025) considered how adding alternative assets to a target date fund might affect five plan participant profiles: the average U.S. worker, the family caretaker, the low-income worker, the job hopper, and the unexpected early retiree. Using a similar approach to Antonelli (2022), she compared the potential income replacement rate for each profile if they invested in a typical target date fund or in an enhanced target date fund with private market exposure. Despite having different savings patterns, she found that each participant profile saw between a 7 percent and 8 percent increase in their income replacement rate by investing in the enhanced target date fund.[179]

Cosic et al. (2021) also simulated how adding private equity to target date funds could affect retirement outcomes.[180] The study relied on the Urban Institute's Dynamic Simulation of Income Model (DYNASIM), which simulates 42 target date funds with different glide paths. The authors modified these target date funds to include private equity investments.[181] Further, acknowledging the uncertainty about future private equity return and risk characteristics, they considered 16 private equity return scenarios, varying private equity performance by expected excess return (alpha), correlation with the market (beta), standard deviation (a common measure of risk), and the maximum share invested in private equity. They find that adding private equity increased assets in retirement savings accounts in all but two of the

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[172] Private infrastructure was benchmarked against the MSCI World Infrastructure Gross Total Return Index for all geographies, the MSCI USA Infrastructure Gross Return Index for North America, and the MSCI EAFE Infrastructure Gross Total Return for the rest of the world.

[173] Gregory Brown, Christian Lundblad & William Volckmann, *Risk-Adjusted Performance of Private Funds: What Do We Know?,* Inst. for Private Capital (Mar. 2025), *https://uncipc.org/wp-content/uploads/2025/03/Private-Risk-Adjusted-Returns-1.pdf.*

[174] In this study, annuitized lifetime income refers to the size of annuity that an individual could draw every year from now until death at age 78. For each age cohort, the study used observed retirement account allocations to public equity and safe assets to estimate risk aversion coefficients. Using the estimated risk aversion coefficients, the study estimates (*i.e.,* the portfolio weights that maximize the risk-adjusted return) for each cohort if retirement investors had access to private equity as well as public equity and safe assets. The study relied on the mean, variance, and correlations of portfolio returns between 1998 and 2020, using the Vanguard Total Stock Market Index Fund for public equity, the Vanguard Total Bond Market Index fund for safe assets, and the Cambridge Associates U.S. Private Equity Benchmark Index for private equity.

[175] Council of Econ. Advisers, *Retail Access to Alternative Investments Via Defined Contribution Plans* (Aug. 2025), *https://www.whitehouse.gov/research/2025/08/retail-access-to-alternative-investments-via-defined-contribution-plans/.*

[176] They modeled 5,000 paths for a full-career employee, with varying salary, contribution, return, and inflation assumptions. *See* Angela Antonelli, *The Evolution of Target Date Funds: Using Alternatives to Improve Retirement Plan Outcomes,* Geo. Univ. McCourt Sch. of Pub. Pol'y Ctr. for Ret. Initiatives (June 2018), *https://cri.georgetown.edu/wp-content/uploads/2018/06/WTW71824_WHITE-PAPER_Georgetown-CRI-Target-Date_Jun-18_Final.vs2_626.pdf.*

[177] Angela Antonelli, *The Evolution of Target Date Funds: Using Alternatives to Improve Retirement Plan Outcomes,* Geo. Univ. McCourt Sch. of Pub. Pol'y Ctr. for Ret. Initiatives (June 2018), *https://cri.georgetown.edu/wp-content/uploads/2018/06/WTW71824_WHITE-PAPER_Georgetown-CRI-Target-Date_Jun-18_Final.vs2_626.pdf.*

[178] Angela Antonelli, *Can Asset Diversification & Access to Private Markets Improve Retirement Income Outcomes?,* Geo. Univ. McCourt Sch. of Pub. Pol'y Ctr. for Ret. Initiatives (Dec. 2022), *https://cri.georgetown.edu/wp-content/uploads/2022/12/report-asset-diversification.pdf.*

[179] Angela Antonelli, *Making the Case: The Effect of Private Market Assets on Retirement Income in Cases of Disrupted Savings* (Aug. 2025), *https://cri.georgetown.edu/wp-content/uploads/2025/08/Effect-of-private-market-assets.pdf.*

[180] Damir Cosic, Karen Smith, Donald Marron, & Richard Johnson, *How Might Investing in Private Equity Funds Affect Retirement Savings Accounts, Urban Inst. Income & Benefits Pol'y Ctr. (Aug. 2021), https://www.urban.org/sites/default/files/publication/104729/how-might-investing-in-private-equity-funds-affect-retirement-savings-accounts.pdf.*

[181] They assume that target date funds would invest a maximum of 15 percent of assets in private equity, funds that hold less than 10 percent in equity would not invest in private equity, and those that hold 90 percent or more in equity would invest in the maximum share of private equity. In addition, they assume that target date funds would increase their exposure to private equity by one percentage point each year until reaching the maximum.

scenarios, and the effect of adding private equity assets on simulated retirement savings ranged from –0.5 percent to 6.7 percent.[182]

Similarly, VanDerhei (2021) considered how adding private equity to target date funds might affect retirement income adequacy.[183] This study used the EBRI Retirement Security Projection Model, which uses data on 27 million 401(k) participants and 20 million individuals with individual retirement accounts to simulate the percentage of retirement investors that will have adequate retirement savings.[184] The model assumes that all 401(k) participants invest in target date funds, and so the study considered how introducing private equity into target date funds would change the estimated number of retirement investors with adequate retirement savings.

VanDerhei found that younger cohorts benefited the most from adding private equity. By replacing 15 percent of the public equity exposure for those aged 35 to 39 with private equity, he estimated that the percent with adequate retirement savings would increase by 1.3 percentage points and the retirement savings shortfall—or the present value of simulated total retirement deficits at retirement—would decrease by 4.8 percent. If instead only 5 percent of public equity exposure was replaced with private equity, the percentage with adequate retirement savings would increase by 0.5 percentage points and the retirement savings shortfall would decrease by 1.8 percent. Older cohorts saw smaller but positive benefits. For example, the percentage of those aged 45 to 49 with adequate retirement savings would increase by 0.6 percentage points if 15 percent of their public equity exposure were replaced with private equity and 0.2 percentage points if 5 percent of their public equity exposure were replaced. The retirement savings shortfall for this age group would decrease by 2.8 percent and 1.0 percent if 15 percent or 5 percent of public equity exposure was replaced with private equity exposure, respectively.[185]

These studies demonstrate that adding exposure to alternative assets in defined contribution plans may enhance risk-adjusted returns for plan participants and beneficiaries. They also demonstrate that the impact of doing so depends on the type of assets included and by how much exposure is added and when. Additionally, they acknowledge the uncertainty about how alternative assets will perform in the future.

12.7.3.1.4. Lessons From Public and Private Defined Benefit Plans

As discussed elsewhere in this analysis, public and private defined benefit plans are already actively investing in alternative assets. While investments and investment courses of action that may be appropriate for public pensions defined benefit plans may not be appropriate for defined contribution plans, the experience of such plans that are investing in alternatives provides important context.

For example, Sethi and Mitchell (2023) looked at historical allocations of private defined benefit plans to examine trends in private equity fund investments.[186] They combined Form 5500 data between 2009 and 2020 on the 20 largest defined benefit plans with private equity exposure with internal rate of return (IRR) data published by Pitchbook for each of the private equity funds invested in by the plans. They found that the percentage of assets allocated to private equity varied significantly across the plans, ranging from less than one percent to nearly 30 percent. They also found that there was no consensus among plans about which private equity funds to invest in. The authors noted that ''there are return and diversification benefits to including [private equity] in a portfolio, but the actual results of [defined benefit] pension plans that invest in [private equity] indicate that there is no single approach that can be broadly applied to [defined contribution] plans.'' [187]

Aubry (2025) considered how alternative investments have affected public pensions. The author observed that outside of real estate, alternative investments performed better than public equities during the 2008–2009 financial crisis. The authors stated: ''This performance, combined with a desire to diversify away from poorly performing stocks and lower yielding bonds, may have led state and local plans to increase their interest in alternatives coming out of the crisis.'' However, allocations to alternative assets have continued to rise, even as public equities have recovered.[188]

Using data from the Public Plans Database,[189] Aubry (2025) regressed net portfolio returns against the percentage of assets allocated to four alternative asset classes: private equity, hedge funds, real estate, and commodities.[190] When considering the entire time period between 2001 and 2022, he did not find a statistically significant relationship between net returns and allocations to private equity, real estate, or commodities, though allocations to hedge funds were associated with lower portfolio returns. However, when looking at shorter time periods, Aubry found that between 2001 and 2009,[191] alternative assets contributed positively to portfolio returns,[192] but since 2010, alternative assets have had a negative effect on portfolio performance.[193]

Korteweg, Panageas, and Systla (2024) looked more specifically at how private equity investments have contributed to public pension plan performance. They combined data from the Comprehensive Annual Financial Reports on 179 state and local pension plans between 1995 and 2018 with data from Preqin on 1,303 venture capital, buyout, and real

[182] Damir Cosic, Karen Smith, Donald Marron, & Richard Johnson, *How Might Investing in Private Equity Funds Affect Retirement Savings Accounts, Urban Inst. Income & Benefits Pol'y Ctr. (Aug. 2021), https://www.urban.org/sites/default/files/publication/104729/how-might-investing-in-private-equity-funds-affect-retirement-savings-accounts.pdf.*

[183] Jack VanDerhei, *The Impact of Adding Private Equity to 401(k) Plans on Retirement Income Adequacy,* Emp. Benefit Rsch. Inst., Issue Brief No. 547 (Dec. 2021).

[184] An individual is considered to have adequate retirement savings if they have enough expected funds from Social Security income and tax-qualified individual accounts to cover expenses.

[185] Jack VanDerhei, *The Impact of Adding Private Equity to 401(k) Plans on Retirement Income Adequacy,* Emp. Benefit Rsch. Inst., Issue Brief No. 547 (Dec. 2021).

[186] Jasmin Sethi & Lia Mitchell, *Does Private Equity Enhance Retirement Investment Outcomes? Evidence from the Experience of Pension Funds,* Morningstar Ctr. for Ret. & Pol'y Studies (Dec. 2023).

[187] Jasmin Sethi & Lia Mitchell, *Does Private Equity Enhance Retirement Investment Outcomes? Evidence from the Experience of Pension Funds,* Morningstar Ctr. for Ret. & Pol'y Studies (Dec. 2023).

[188] Jean-Pierre Aubry, *Public Pension Investment Update: Have Alternatives Helped or Hurt?,* Ctr. for Ret. Rsch. at Bos. Coll., Issue in Brief No. 22–20 (Nov. 2022), *https://crr.bc.edu/wp-content/uploads/2022/11/IB_22-20-1.pdf.*

[189] The Public Plans Database collects data on 220 major public pension plans, accounting for more than 95 percent of U.S. state and local pension assets.

[190] This study relied upon indices for this analysis. For a discussion on the drawbacks of relying on indices (*e.g.,* survivorship bias), refer to section 7.3.1.1.

[191] Between 2001 and 2009, he found that higher allocations to private equity, real estate, and commodities were associated with higher portfolio returns; he did not find a statistically significant relationship for hedge funds.

[192] Between 2010 and 2022, allocations to hedge funds and commodities were associated with lower portfolio returns; he did not find a statistically significant relationship for private equity or real estate.

[193] Jean-Pierre Aubry, *Public Pension Investment Update: Have Alternatives Helped or Hurt?,* Ctr. for Ret. Rsch. at Bos. Coll., Issue in Brief No. 22–20 (Nov. 2022), *https://crr.bc.edu/wp-content/uploads/2022/11/IB_22-20-1.pdf.*

estate private equity funds.[194] To measure performance, the study relied on the investor portfolio equivalent (IPE)—a modified PME that uses the investor's portfolio return instead of market portfolio returns—and the generalized IPE—a modified IPE that accounts for risk aversion. When accounting for risk aversion, the study did not find a statistically significant association between private equity investments and pension fund performance. Among the fund strategies considered, only buyout funds would have benefited plans.[195]

In addition, when considering plan characteristics, the study found that underfunded plans tended to take on more risk, typically resulting in lower risk-adjusted returns. Similarly, pension plans with more state officials and appointed members on the board tended to take on more risk, again typically resulting in lower risk-adjusted returns. The authors noted that, ''[t]hese results are broadly consistent with agency problems within pension plans, such as gambling for resurrection and political influence, playing an important role in investment decisions.'' [196]

The experience of defined benefit plans cannot be directly applied to defined contribution plans. However, the experience of these plans emphasizes the importance of prudent investment selection when considering adding alternative assets. The simulated benefits of adding alternative assets to defined contribution plans discussed in section 12.7.3.1.3 suggest that most portfolios would benefit from adding alternative assets. The results from these hypothetical simulations, however, should be tempered by the mixed results that defined benefit plans have experienced in practice. While the return and risk characteristics of public equity and debt are generally well understood and easily implemented into a portfolio, alternative assets are highly variable. This underscores the importance of prudent investment selection when considering alternative assets.

12.7.4. Conclusion

The proposed rule would provide protection to both plan fiduciaries and plan participants and beneficiaries regarding defined contribution plan investments. Plan fiduciaries would have more certainty as to what the duty of prudence requires when considering designated investment alternatives, and consequently, would have less litigation risk in connection with their determinations. In addition, by adopting the process-based approach established by the proposed rule and safe harbor, plan fiduciaries would have assurances that they are fulfilling their duty of prudence, which would ensure that plan participants and beneficiaries have access to designated investment alternatives that promote income generation while also meeting plan participant and beneficiary needs with respect to risk, liquidity, and price transparency.

The proposed rule would reinforce the discretion ERISA grants to plan fiduciaries when considering designated investment alternatives and clarify that the Department maintains an asset-class neutral position. This flexibility would allow defined contribution plan fiduciaries to consider a wider array of financial vehicles and markets when designing menus that prioritize risk-adjusted returns, rather than remaining anchored to a traditional investment approach of public equities and debt. For many plans, such a course of action may still be appropriate for the circumstances and goals of their plan and its participants and beneficiaries. However, this proposed rule would enable plan fiduciaries to consider a wider opportunity set of investments and promote the maximization of risk-adjusted returns while still exercising prudent judgement.

12.8. Costs

This proposed rulemaking provides a safe harbor for plan fiduciaries predicated on their employing an objective, thorough, and analytical process-based approach when selecting plan investment options. The Department expects the main cost driver of this proposal to be reviewing and understanding the proposal and its implications. The Department also expects that the reduction in litigation risk resulting from the rulemaking will allow for a reduction in costs associated with managing that risk. The Department expects the rule, when finalized, will reduce costs by $488.0 million in the first year and $591.9 million in subsequent years while also allowing for more flexibility in the provision of the retirement plan.

12.8.1. Rule Review

The Department assumes that, on average, it will take legal professionals roughly 5 hours to review the proposed rule for those plans that handle plan administration in-house, and 10 hours for service providers.[197] The assumption for service providers is higher because they service many plans with diverse investment policies which dictate a closer, more comprehensive review of the proposal. The Department estimates that reviewing the rule will cost $103.9 million in the first year. The estimation of rule review burden is discussed below.

As presented in the Affected Entities section, the Department estimates that roughly 85 percent of plans will rely on service providers to review the rule with the remaining 15 percent managing their plan investments in-house. The Department estimates there to be roughly 5,350 service providers who may provide or be involved in the provision of relevant services to plans. The Department expects that the service providers will then provide the relevant information to plans during their next Investment Committee Meeting as a course of normal business.

The remaining 15 percent of plans are assumed to use in-house resources and will also discuss the relevant parts of the rule with the plan investment manager or committee at the next Investment Committee Meeting. The cost of rule review borne by plans is detailed in Table 4 below.

[194] The private equity funds included in the analysis are North American private equity funds with $5 million or more in committed capital. They exclude funds with vintages after 2013. They find that approximately 9 out of the 10 identified funds are invested in at least one pension plan.

[195] Arthur Korteweg, Stavros Panageas & Anand Systla, *Private Equity for Pension Plans? Evaluating Private Equity Performance from an Investor's Perspective,* NBER Working Paper No. 33194 (Nov. 2024), *http://www.nber.org/papers/w33194.*

[196] *Id.*

[197] The Department assumes a reading rate of 10 pages per hour, which is based on widely available estimates for technical and learning materials and much lower than the general reading rate, which is typically around 60 pages per hour. The Department also estimates roughly 30 pages of relevant information for a professional to review for the proposed rule. The Department then adds an amount of time to account for the resulting work that may be stimulated, such as writing memos, creating job aids, drafting and sending correspondence and potential meetings of sufficient duration to communicate what is directly resultant from the proposed rule. These estimates are averages with the understanding that some may devote more time to review the rulemaking, while other will rely on service providers to review and summarize the rulemaking.

TABLE 4.—*Cost of Rule Review*

	Plan Count (a)	Time to Review (Hours) (b)	Time Burden to Review (Aggregate) (a x b) =c	Hourly Cost of Legal Professional (d)	Cost of Rule Review (c x d) = e
Plan Review (15% of Plans)	108,159	5	540,795	$174.77	$94,514,742
Service Provider Review	5,350	10	53,500	$174.77	$9,350,195
Total			594,295		$103,864,937

12.8.2. Cost To Provide Information to Plan Fiduciary

The Department's proposal and safe harbor allow plan fiduciaries to satisfy the consideration and determination requirements for certain factors by obtaining written representations from a person responsible for managing the designated investment alternative and then reading and critically reviewing the representations, consulting a qualified professional if necessary. This is particularly true in cases where the independent fiduciary, either directly or via another qualified party such as an appraiser, is considering information related to the liquidity or valuation of assets in the investment option being considered. As discussed in section 12.6.2, while there are other avenues for inclusion in defined contribution plans, the most likely method is by including them in target date funds or managed accounts. The Department only has sufficient data to broadly estimate the take-up related to target date funds; therefore, this analysis is centered on them. The Department discussed its approach to quantify this activity in section 12.6.2. and estimates that 47,333 plans will select a new target date fund that includes alternative assets each year.

The Department also assumes that the investment options considered will require additional information to ensure qualification for the safe harbor roughly half the time. The Department assumes that the analysis and communication would be similar to current practices; however, a service provider would spend an additional 15 minutes gathering and organizing the pertinent information and then electronically sending the information to the plan to memorialize. This results in an annual estimated cost of approximately $1.1 million. The estimation process of this potential annual cost is shown in Table 5. The Department requests comments on the assumptions used to develop this estimate.

TABLE 5.—*Estimate of Change in Annual Documentation Costs*

Professional Completing Action	Hourly Cost of Professional (a)	Time per Occurrence (Hours) (b)	Participant Directed DC Plans Selecting a TDF with Alternative Assets (c)	Proportion Requesting Additional Documentation (d)	Number of Plans Requiring Additional Documentation from Service Provider (c x d) = e	Total Cost (a x b x e) = f
Financial Analyst/Adviser	$192.09	1/4	47,333	50%	23,667	$1,136,525

12.8.3. Cost Savings From Reduced Litigation Risk

Plans expend significant resources in managing litigation risk. Plans must understand the litigation trends within the defined contribution plan universe and, when appropriate, take actions to minimize risk. This rule is intended to reduce the exposure to litigation risk and therefore will reduce the time spent researching, monitoring, and discussing the topic. The Department assumes that these time reductions will be most felt at Investment Committee Meetings, where litigation trends and their impact on plan investments are routinely discussed.

12.8.3.1. Investment Committee Meetings

The Department estimates that the safe harbor will meaningfully reduce the resources dedicated to litigation risk management during plans' Investment Committee Meetings. PSCA surveys indicate that in 2024 and 2025, most of

the Profit Sharing and 401(k) plans surveyed met quarterly to evaluate their plan's investments. This is the case for plans of all sizes, although small plans were more likely to meet on a less frequent basis, either annually or semi-annually.[198] Using PSCA's last two surveys' findings as a basis, the Department assumes the meeting frequency factors in Table 6.[199]

TABLE 6.—*Investment Committee Meeting Frequency, by Plan Size*

Meeting Frequency	Small (Fewer than 100 Participants)	Large (100 Participants or more)
Annually	25%	10%
Semi-Annually	20%	15%
Quarterly	55%	75%

The Department anticipates that, following the finalization of the rule and adoption of the safe harbor, less time and focus will be spent on the litigation landscape related to selection of plan investments and the subsequent potential risk exposure for the plan fiduciary. The Department estimates this simplification will result in cost savings in two ways. First, the preparation of legal risk analysis will be simplified, which the Department assumes will reduce legal risk analysis preparation by two hours for each regular Investment Committee Meeting. The responsibility of preparation is assumed to be split in the same manner as applied to the rule review, with service providers servicing 85 percent of plans, and the remaining 15 percent of plans using in-house resources. Second, simplifying the discussion within the Investment Committee Meeting will result in shorter meetings. The Department assumes that the average meeting time for each regular Investment Committee Meeting will be reduced by 30 minutes. The cost savings of these effects taken together are estimated to be $592.8 million each year, which is developed in the following sections.

12.8.3.1.1. Cost Savings, Litigation Risk Analysis Preparation

To determine the potential cost savings of the proposed rule and safe harbor, the Department first estimates the aggregate time savings due to the reduction in complexity of fulfilling their fiduciary responsibilities when considering and selecting plan investments for all affected parties, particularly with respect to the time spent in the development of the litigation landscape report and presentation relevant to the plan. The Department assumes the parties responsible will reduce the time taken to research and develop the presentation of the report by an average of two hours per preparer. The Department assumes that this report is routinely prepared or updated for each Investment Committee Meeting occurrence.

Using the 2023 plan count for participant-directed defined contribution plans by plan size presented in the Affected Entities section, the Department applies the factors from Table 5 to distribute plans by meeting frequency and size to arrive at the number of plans estimated to conduct the legislative risk analysis with plan or sponsor resources. This process is displayed in Table 7.

TABLE 7.—*Estimate of Plans Completing Legislative Risk Analysis In-House, by Meeting Frequency*

Monitoring Frequency	Small (100 or Fewer Participants) (a)	Large (More than 100 Participants) (b)	Total Plans, by Meeting Frequency (a + b) = c	Portion of Plans Conducting Function In-House (d)	Number of Plans Affected (c x d) = e
Annually	157,596	9,068	166,664	15%	25,000
Semi-Annually	126,077	13,601	139,678	15%	20,952
Quarterly	346,712	68,007	414,719	15%	62,208
Total	630,385	90,676	721,061		108,159

Next, the Department develops the time- and cost-savings estimates for plans by applying the estimated time savings per instance to plans and service providers to complete the analysis, which are estimated at $117.8

[198] PSCA, *67th Annual Survey of Profit Sharing and 401(k) Plans* (2024); PSCA, *68th Annual Survey of Profit Sharing and 401(k) Plans* (2025).

[199] The Department examined the rates reported based on plan size. However, the size classes presented in the survey results do not line up perfectly with Departmental plan size definitions. Generally, the Department averaged the rates by size and rounded to increments of 5%.

million annually. This process is displayed in Table 8 below.

TABLE 8.—*Cost Savings, Preparation for Investment Committee Meeting*

Monitoring Frequency	Number of Affected Plans, by Meeting Frequency	Number of Service Providers Affected[1]	Number of Analyses Conducted Annually	Change in Legislative Risk Preparation (Hours)	Investment Committee Meeting Preparation Time Savings	Hourly Cost of Legal Professional	Total Cost Savings
(a)	(b)	(c)	[(b + c) x a] = d	(e)	(d x e) = f	(g)	(f x g) = h
Annually	25,000	0	25,000	-2	-49,999	$174.77	-$8,738,360
Semi-Annually	20,952	0	41,903	-2	-83,807	$174.77	-$14,646,914
Quarterly	62,208	5,350	270,231	-2	-540,463	$174.77	-$94,456,684
Total	108,159	5,350	337,134		-674,269		-$117,841,958

[1] All outside service providers are assumed to perform quarterly analyses.

12.8.3.1.2. Savings Associated With Shorter and Less Complex Investment Committee Meetings

The findings of the litigation analysis and regulatory updates are typically presented during plan Investment Committee Meetings. The Department anticipates this rule will reduce the duration of the meetings by an average of 30 minutes due to the reduced content they need to cover. The Department uses 30 minutes with the understanding that the actual time savings could deviate substantially for individual plans. The Department requests comments on these assumptions.

Using the meeting frequencies developed in the previous section, the Department next estimated the total number of meetings by plan size and meeting frequency. The results of this estimate are presented in Table 9.

TABLE 9.—*Number of Investment Committee Meetings, by Frequency and Plan Size*

	Small (100 or Fewer Participants) (a)	Large (More than 100 Participants) (b)	Total Number of Investment Committee Meetings (a + b) = c
Annually	157,596	9,068	166,664
Semi-Annually	252,154	27,202	279,356
Quarterly	1,386,848	272,028	1,658,876
Total	1,796,598	308,298	2,104,896

Finally, the Department used the estimated number of meetings per year from Table 9 to develop an estimated cost savings based upon the group of likely meeting participants. These results are presented in Table 10 below.

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TABLE 10.—*Cost Savings Due to Simplified Investment Committee Meetings*

Plan Size	Meeting Participants	Hourly Cost of Professional	Estimated Reduction in Meeting Duration (Hours)	Total Cost Savings, per Meeting Attended	Meeting Attendees	Total Meetings	Total Savings
		(a)	(b)	(a x b) = c	(d)	(e)	(c x d x e) = g
Small Plans	Legal Professional	$174.77	-1/2	-$87.39	0	1,796,598	$0
	Financial Manager or Investment Professional	$201.38	-1/2	-$100.69	0	1,796,598	$0
	Top Executive	$143.75	-1/2	-$71.88	1	1,796,598	-$129,130,481
	Benefits & Compensation Manager	$179.96	-1/2	-$89.98	1	1,796,598	-$161,657,888
	Administrative Professional	$72.53	-1/2	-$36.27	1	1,796,598	-$65,153,626
Large Plans	Legal Professional	$174.77	-1/2	-$87.39	1	301,821	-$26,940,621
	Financial Manager or Investment Professional	$201.38	-1/2	-$100.69	1	301,821	-$31,042,526
	Top Executive	$143.75	-1/2	-$71.88	1	301,821	-$22,158,919
	Benefits & Compensation Manager	$179.96	-1/2	-$89.98	1	301,821	-$27,740,654
	Administrative Professional	$72.53	-1/2	-$36.27	1	301,821	-$11,180,427
Total Estimated Savings							**-$475,005,142**

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Combining the effects of the two anticipated cost savings elements (results from Tables 8 and 10) results in an estimated cost savings of $592.8 million annually.

12.9. Transfers

The litigation risk associated with ERISA plan fiduciaries performing their fiduciary duties drains resources that could be used for other means. The National Institute of Pension Administrators estimated that between 2009 and 2016, approximately $204 million was paid to lawyers in breach of fiduciary duty cases.[200] More recent data paints a similar picture: a 2021 AMWINS Market Insights article states that since 2015, over $250 million in attorney fees have been paid by fiduciary insurance carriers. The article goes on to note that fiduciary insurance costs have been rising despite the fact that, at the same time, there have been insurance policy changes that otherwise limit the number of insurable events, thereby reducing the value of the insurance, all other things being equal. Industry and the retirement savings system have been struggling to absorb the cost increases.[201] The Mayer Brown law firm reports that, since 2023, there have been more than 120 class settlements in ERISA excessive fee lawsuits, the most common challenge in recent years, totaling more than $665 million, which gives a sense of the frequency and magnitude of the claims.[202]

This activity has made it more expensive for defined contribution retirement plan fiduciaries to obtain fiduciary insurance, through a combination of higher premiums and lower coverage terms. An Aon article noted that prices stabilized somewhat in 2023, but changes in coverage terms had meaningfully eroded the value the

[200] Thomas Kmak, Nat'l Inst. of Pension Adm'rs, *Protect Yourself at All Times—Emphasize Quality, Service and Value Before Fees* (Apr. 11, 2016).

[201] Daniel Aronowitz & Unnamed Exec. Vice President, AMWINS Brokerage, *How Excessive Fee Litigation Is Changing the Fiduciary Insurance Market* (Apr. 2021).

[202] Richard Nowak, Nancy Ross & Brantley Webb, Mayer Brown, *The Evolution of Defined Contribution Plan Class Action Litigation in 2025* (Oct. 2025).

insurance policies once provided.[203] The changes to coverage terms have come in many forms, such as increased retentions, which have ranged from $2.5 to $15 million for large plans, in which the plan is responsible for some predetermined amount before insurance coverage begins; and through reduced liability limits for plan fiduciaries.[204] The increased costs and reduced coverage results in additional plan expenses and limited investment exposure, which in turn impact plan participants and beneficiaries.

A reduction in litigation risk for plan fiduciaries could result in a further stabilization in insurance costs, an improvement for plan fiduciaries in the coverage terms of the policies, or some combination. The Department lacks sufficient data to quantify this potential transfer from insurers to plan fiduciaries or retirement plans. What can be asserted is that when prices stabilize or fall, a transfer from the insurer to the plan sponsors or retirement plans occurs. Similarly, if the policy terms become more malleable, the plan sponsor could renegotiate their terms to realize savings, again resulting in a transfer. The Department requests comments on this topic.

There would also be a transfer from financial institutions that sponsor stocks and bonds to financial institutions that sponsor alternative investments, such as private equity firms, hedge funds, and insurance companies that sell lifetime income products. This transfer would occur because the proposal would alter plan fiduciary selections for menus, leading participants in aggregate to invest less plan assets in stocks and bonds and more in alternative investments. Financial institutions associated with stocks and bonds would experience a decrease in revenue while financial institutions associated with alternative investments would experience an increase in revenue.

12.10. Regulatory Alternatives

In accordance with Executive Order 12866, the Department considered several alternative regulatory approaches to achieve the goal of the proposal. A discussion of those options and the Department's rationale for not adopting them follows.

12.10.1. Limiting the Safe-Harbor to Inclusion of Alternative Assets in Asset Allocation Funds

The Department considered limiting the proposed safe harbor to just alternative assets and their inclusion in an asset allocation fund, such as a target date fund, an adviser managed account, or any other pooled investment vehicle which invests in a diversified pool of assets across multiple asset classes. In fact, in August 2025, the Committee on Capital Market Regulation recommended that the Department consider a safe harbor for private market asset inclusion in asset allocation funds.[205] Given the existing pervasiveness of such funds, the emergence of some asset allocation funds already investing in alternative investments without a safe harbor, as well as specific attributes of these funds (lower reallocation rates of participants making the investments more stable, multiple asset classes within such funds which facilitates daily liquidity requirements, and the share of investments in any asset class being limited by the plan fiduciary to manage risk), the Department felt there was a strong argument to develop a safe harbor specifically for these funds.[206]

However, the Department decided to take a more expansive approach regarding both the class of investments and the investment vehicles for which the safe harbor applies. By remaining neutral on the types of assets and vehicles, defined contribution plan fiduciaries can apply the specified review methodology outlined in this proposed rule to an array of potential designated investment alternatives. This in turn will provide reassurances to those plan fiduciaries that the investment option is suitable for the plan and its participants and beneficiaries while expanding the universe of options available.

12.10.2. Expanding the Safe Harbor to the Selection of all Investment Options, Products, and Service Providers

The Department also considered a far broader safe harbor that would extend fiduciary protections to the selection and monitoring of all investment options, products, and service providers. Under this alternative, plan fiduciaries adhering to the processes outlined in the safe harbor to prudently select and monitor not only investment options but also their service providers, would not have any liability under sections 404 or 406 of ERISA regarding the selection of a designated investment alternative, service provider, or other products. At least one stakeholder has indicated that such a safe harbor would, in addition to expanding the number and types of investment products offered, dramatically reduce ERISA litigation that constrains fiduciaries' ability to apply their best judgment in offering investment opportunities to relevant plan participants and beneficiaries.[207]

The Department, while acknowledging that such a proposal would provide significant relief to plan sponsors offering employee benefits while also remaining asset-neutral regarding plan offerings, felt there was too great a chasm between the processes for selecting designated investment alternatives and the processes for selecting and assessing contracts with service providers. As such, the Department declined to expand this proposed regulatory action beyond providing a safe harbor to plan fiduciaries for the selection of designated investment alternatives for participant-directed individual account plans.

12.10.3. Including Curation of a Menu of Investments Overall

The Department's proposal focuses on plan fiduciaries' prudent selection of individual designated investment alternatives for participant-directed individual account plans. However, each designated investment alternative selected by a plan fiduciary also plays a role in the overall investment lineup for the plan—the types of asset classes that participants with a wide range of investment experience and needs can select from to ensure their retirement savings are diversified and are appropriate for their personal level of risk.

The Department considered expanding the proposed regulation to include guidance on how to prudently curate a menu of investments overall to address the fact that ERISA's duty of prudence applies not just to the selection of each designated investment alternative but also to the collection of designated investment alternatives as a whole—*i.e.,* to both the individual parts and the sum. After careful review, the

[203] Jay Desjardins, *Fiduciary Liability Insurance—Current Trends and Emerging Issues for Public Companies* (Jan. 2024).

[204] Jay Desjardins, *Fiduciary Liability Insurance—Current Trends and Emerging Issues for Public Companies* (Jan. 2024).

[205] Comm. on Capital Mkt. Regul., *Expanding Opportunities for U.S. Investors and Retirees: Private Markets* (Aug. 2025), *https://capmktsreg.org/wp-content/uploads/2025/08/CCMR-Expanding-Access-to-Private-Markets-08.07.25-Final.pdf.*

[206] Angela M. Antonelli, *Can Asset Diversification & Access to Private Markets Improve Retirement Income Outcomes?,* Geo. Univ. Ctr. for Ret. Initiatives (Dec. 2022), *https://cri.georgetown.edu/wp-content/uploads/2022/12/report-asset-diversification.pdf.*

[207] Am. Benefits Council, Letter to Assistant Secretary Dan Aronowitz (Dec. 5, 2025).

Department decided that addressing the overall menu design is beyond the scope of this proposed regulation and that the question of menu design is better addressed under section 404(c) of ERISA, which provides fiduciary relief for participant-directed individual account plans that offer a broad range of investment options that meet specified requirements.

12.10.4. Monitoring Obligation

The Department considered incorporating into the proposed rule a safe harbor for a fiduciary's duty to monitor designated investment options at regular intervals after their selection process. Much of the criteria and processes associated with selecting an investment option is relevant to the duty of monitoring said selection, and the courts have been clear that ERISA fiduciaries have a continuing obligation to monitor all plan investments—not just a subset—and to remove options that the fiduciary determines, after a rigorous process, are no longer appropriate.

However, the Department anticipates issuing interpretive guidance in the near term concerning fiduciary obligations under ERISA to monitor designated investment alternatives following their inclusion on a plan's investment menu. As a result, the Department opted not to include these obligations in the proposed rule.

12.11. Uncertainty

12.11.1. Uncertainty Related to the Number of Plans Selecting Alternative Asset Investments

One of the objectives of the proposed regulation is to confirm that plan fiduciaries have wide discretion when selecting designated investment alternatives. Menus have generally shrunk in recent years as fiduciaries responded to litigation risk by limiting investment options. This is particularly noticeable in the case of alternative investments, where nearly 70 percent of defined benefit plans invest in alternative investments [208] but only 4 percent of defined contribution plans do.[209]

By providing a safe harbor that is asset neutral, the proposed rule will clarify and provide protection for defined contribution plan fiduciaries when prudently selecting investments for menus which will, in turn, expand the universe of potential investment vehicles, including alternative investments. The expansion of investment opportunities for plan participants and beneficiaries by offering them enhanced returns and risk mitigation could affect retirement savings, though the impact is sensitive to a number of factors.

In particular, plans are under no obligation to use the safe harbor or to change their plan investment menu in response to the proposed rule. As a result, it is unclear how many plans would adopt alternative assets, what alternative investments would be most likely to be adopted by plans, what the take-up rates of plan participants and beneficiaries for those investment options would be, and how much of their portfolios would be invested in alternative investments. The Department is therefore uncertain how large an impact the proposed rule will have on expanding the offerings of alternative investments in participant-directed defined contribution plans.

12.11.2. Uncertainty Related to Financial Markets

Part of the impetus for the proposed rule and its focus on removing barriers to participant-directed defined contribution plans that want to consider offering alternative investments, is that defined benefit plans have invested in alternative investments for years. However, financial markets are dynamic and constantly changing in response to innovation, demographics, debt, economic movements, and other factors. This means that historical returns are not indicative of future performance for any asset. The uncertainty about the future performance of alternative assets is particularly heightened, however, given their liquidity and valuation characteristics. If this proposed rule results in a significant flow of assets into alternative asset classes, this may shift their return characteristics and negate the efforts to improve the retirement savings security of participants and beneficiaries.

13. Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to allow the general public and Federal agencies to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA). This helps ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

The Department is soliciting comments regarding the information collection request (ICR) included in the proposed amendments to the ICRs. To obtain a copy of the ICR, contact the PRA addressee below or go to *RegInfo.gov.* The Department has submitted a copy of the rule to the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Department and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronically delivered responses).

Commenters may send their views on the Department's PRA analysis in the same way they send comments in response to the proposed rule as a whole (for example, through the *www.regulations.gov* website), including as part of a comment responding to the broader proposed rule. Comments are due by June 1, 2026 to ensure their consideration.

ICRs are available at *RegInfo.gov* (*reginfo.gov/public/do/PRAMain*). Requests for copies of the ICR can be sent to the PRA addressee:

By mail: PRA Officer, Office of Research and Analysis, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5718, Washington, DC 20210.

By email: ebsa.opr@dol.gov.

13.1. Affected Entities and Cost Estimate

The Department's proposal and safe harbor allow plan fiduciaries to satisfy the consideration and determination

[208] Mercedes Aguirre & Brendan McFarland, *2023 Asset Allocations in Fortune 1000 Pension Plans,* Insider, Vol. 35, No. 2 (Feb. 2025), *https://www.wtwco.com/-/media/wtw/insights/2025/02/wtw-insider-2023-asset-allocations-in-fortune-1000-pension-plans.pdf?modified=20250225111427*.

[209] PlanSponsor, *2025 PLANSPONSOR DC Survey Plan Benchmarking and Industry Report* (Jan. 2025).

requirements for certain factors by obtaining written representations from a person responsible for managing the designated investment alternative and then reading and critically reviewing the representations. As discussed in section 12.8.2, the Department assumes that service providers would spend 15 minutes per plan gathering and organizing the pertinent information, resulting in an annual estimated cost of approximately $1.1 million, which is displayed in Table 11. The Department assumes that the information would be sent electronically and would result in a de minimis burden. Please refer to section 12.8.2 for details related to this estimate.

TABLE 11.—*Cost to Provide Information to Plan Fiduciaries*

Professional Completing Action	Hourly Cost of Professional	Time per Occurrence (Hours)	Participant Directed DC Plans Selecting a TDF with Alternative Assets	Proportion Requesting Additional Documentation	Number of Plans Requiring Additional Documentation from Service Provider	Total Cost
	(a)	(b)	(c)	(d)	(c x d) = e	(a x b x e) = f
Financial Analyst/Adviser	$192.09	1/4	47,333	50%	23,667	$1,136,524

13.2. Summary

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Selection of Designated Investment Alternatives—Relevant Factors and Determinations for Fiduciaries of Individual Account Plans.

Type of Review: New collection.

OMB Control Number: 1210–NEW.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Respondents: 23,667.

Responses: 23,667.

Frequency of Response: Annual.

Estimated Total Burden Hours: 5,917.

Estimated Total Costs: $0.00.

14. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [210] imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of 5 U.S.C. 553(b).[211] Under 5 U.S.C. 603, agencies must submit an initial regulatory flexibility analysis (IRFA) of a proposal that is likely to have a significant economic impact on a substantial number of small entities, such as small businesses, organizations, and governmental jurisdictions. The Department provides its IRFA of the proposed rule, below.

14.1. Need for and Objectives of the Rule

As discussed in the Need for Regulatory Action section of the Regulatory Impact Analysis above, Executive Order 14330 directs the Department to issue rules, regulations, or guidance to reexamine and clarify the Department's position on the duty of fiduciaries when offering asset allocation funds with exposure to alternative assets. Executive Order 14330 further directs the Department to prioritize actions to curb ERISA litigation which constrains the ability of fiduciaries to provide investment opportunities when selecting designated investment alternatives.

This additional clarity is crucial in the small plan universe, as smaller plans tend to lag larger plans in adopting novel or complex investment options. For example, in the PSCA's 2014 survey, when target date funds were still being newly adopted, only 50 percent of the survey's smallest plans had a target date fund on their menu, compared to 71 percent of the largest plans. This lag persists in the PSCA's 2025 survey, with 66 percent of the smallest plans offering a target date fund, compared to 92 of the largest plans. Moreover, small plans are also more likely to rely on safe harbors to simplify compliance procedures. For instance, the same survey also found that 68 percent of the smallest plans relied on safe harbor plan design for average deferral, non-discrimination, and top-heavy contribution tests, versus only 30 percent of the largest plans.[212]

This proposed rule, by providing a safe harbor that is asset neutral, will clarify and provide protection for defined contribution plan fiduciaries in their requirements for prudently selecting investments for their menus which will, in turn, expand the universe of potential investment vehicles considered when choosing designated investment alternatives and enhance the retirement security of participants and beneficiaries.

14.2. Affected Small Entities

The proposed rule would likely affect most small participant-directed defined contribution plans as well as their participants and beneficiaries, as it broadly describes the factors a plan fiduciary must consider and make determinations on when selecting designated investment alternatives for a participant-directed individual account plan. Many small plans rely on service providers for plan administration and investment menu selection. As such, many of these service providers would design investment menus and alternatives with this proposal and its safe harbor in mind.

According to the Statistics of U.S. Businesses, 97.6 percent of firms in Finance and Insurance are small. As a result, the Department assumes that 97.6 percent of service providers will be small firms.[213] Small plans themselves would then be primarily affected through the additional investment options available to them under the safe harbor, as well as the reduced litigation risk that the safe harbor offers.

[210] 5 U.S.C. 601 *et seq.*

[211] 5 U.S.C. 601(2), 603(a).

[212] PSCA, *57th Annual Survey of Profit Sharing and 401(k) Plans* (2014), and PSCA, *68th Annual Survey of Profit Sharing and 401(k) Plans* (2025).

[213] Average Receipts for firms in NAICS code 52, Finance and Insurance, are below the $47 million for every size category below 100 employees. 97.6 percent of firms in this industry have below 100 employees. *See* U.S. Census Bureau, ''Statistics of U.S. Businesses (SUSB),'' *https://www.census.gov/programs-surveys/susb.html.*

Additionally, the Department expects that additional costs incurred by service providers to comply with this proposal will eventually be passed on to small plans in the form of increased administrative fees. As such, all small, participant-directed defined contribution plans would be affected.

As discussed in the Regulatory Impact Analysis, 56 companies providing target date funds will also be affected by the proposal. Because many of these entities are private, assessing revenue sizes is difficult. The Department assumes that the overwhelming majority of these entities are very large. After reviewing publicly available revenue estimates, the Department was only able to identify eight target date fund providers with revenue estimates near or below the $47 million revenue size requirement for Miscellaneous Financial Investment Activities. However, to account for uncertainty, the Department will assume that there are ten small providers of target date funds.

Life insurers providing group annuities will also be affected by the proposal. According to the 2024 Market Share report by the National Association of Insurance Commissioners, 42 life insurers had Direct Issued Premium in excess of $47 million, which is the size requirement for direct life insurers. The Department assumes that all 540 other direct life insurers will be small.

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TABLE 12.—*Affected Small Entities Summary*

Description	Assumption/Estimate
All Participant-Directed DC Plans	
Number of Plans	630,385
Number of Participants	13 million
Assets	$0.9 trillion
Plans Adding Target Date Funds with Alternative Assets Each Year	
Number of Plans	41,380
Number of Participants	0.4 million
Assets	$18 billion
Other Affected Entities	
Number of Service Providers[1]	5,224
TDF Providers to Participant-Directed DC Plans	10
Life Insurers Underwriting Group Annuities	540
Unquantified Affected Entities	
• Private Equity Firms and Hedge Funds	
• Firms Marketing Investments Related to Digital Assets	
• Insurance Companies Selling Fiduciary Insurance	

[1] This calculation includes all QPAMS, 3(21) & 3(38) & Plan Administrators. The estimate also includes the 50 percent of broker-dealers that the Department assumes work with participant-directed defined contribution Plans. Due to uncertainty, this estimate is rounded to the nearest 25.

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14.3. Impact of the Rule

As discussed in detail in the Regulatory Impact Analysis above, all small plans and their service providers will be affected by rule review, however the Department assumes that most small plans will rely on their service providers to conduct this review. Small plans are also more likely to rely on service providers for menu selection, so many service providers will review the proposed rule in terms of investment selection, fiduciary liability, and menu design. While some small plans will perform these functions in-house, the Department assumes that most of these functions will be performed by service providers, with the associated costs being passed down to small plans.

Small firms that provide target date funds to participant-directed defined contribution plans will also be affected by the proposed safe harbor, which provides additional clarity on features that will enhance the development of target date funds with alternative assets that are marketed to participant-directed defined contribution plans. As a result, some small firms may provide new asset allocation funds with alternative asset exposure.

Small life insurers writing group annuities, hedge funds, and private equity firms are also expected to be affected due to increased demand for their products, and small insurers providing fiduciary insurance are affected through the reduction in litigation risk provided by this proposal and its safe harbor.

14.3.1. Rule Review

The Department assumes that 15 percent of plans perform rule review in-house. The cost to small entities and their service providers to review the proposal is displayed below.

TABLE 13.—*Cost of Rule Review*

	Plan Count (a)	Time to Review (Hours) (b)	Time Burden to Review (Aggregate) (a x b) =c	Hourly Cost of Legal Professional (d)	Cost of Rule Review (c x d) = e
Plan Review (15% of Plans)	94,558	5	472,789	$174.77	$82,629,290
Service Provider Review	5,224	10	52,245	$174.77	$9,130,832
Total			525,034		$91,760,122

14.3.2. Cost To Provide Information to Plan Fiduciary

As presented in greater detail in section 12.8.2 of the Regulatory Impact Analysis, a plan fiduciary selecting an investment that requires additional consideration related to liquidity or valuation of hard-to-value assets can receive written representations related to the relevant topic that would satisfy compliance with the safe harbor of the proposal. The Department expects that this would only be generally relevant when service providers are reviewing asset classes that were exposed to litigation risk before the safe harbor's creation, like asset-allocation funds containing alternative assets.

While there are other avenues for inclusion of alternative assets in defined contribution plans, the most likely vehicle would be a target date fund or managed account. The Department only has sufficient data to broadly estimate the take-up related to target date funds; therefore, this analysis is centered on them. The Department's estimates for these costs are displayed in Table 14 below.

TABLE 14.—*Estimate of Change in Annual Documentation Costs*

Professional Completing Action	Hourly Cost of Professional (a)	Time per Occurrence (Hours) (b)	Small Participant Directed DC Plans Selecting a TDF with Alternative Assets (c)	Proportion Requesting Additional Documentation (f)	Number of Plans Requiring Additional Documentation from Service Provider (c x d x e x f) = g	Total Cost (a x b x g) = h
Financial Advisor	$192.09	1/4	41,380	50%	20,690	$993,585.53

The Department estimates that the safe harbor will meaningfully reduce the resources dedicated to preparing and discussing litigation risk management during plans' Investment Committee Meetings. PSCA surveys indicate that in 2024 and 2025 most of the profit sharing and 401(k) plans surveyed met quarterly to evaluate their plan's investments. This is the case for plans of all sizes, although small plans were more likely to meet on a less frequent basis, either annually or semi-annually.[214] Using PSCA's last two surveys' findings as a basis, the Department assumes the meeting frequency factors in Table 15.[215]

14.3.3. Cost Savings From Reduced Litigation Risk and Meeting Preparation

The Department expects that the additional clarity provided by this proposal and its safe harbor will allow plans to spend less time dedicated to preparing and presenting research on litigation risk management during plans' Investment Committee Meetings. To assess these savings, the Department developed estimates based on how frequently plans meet. The Department's calculations for the number of meetings, as well as the total cost savings for meeting preparation and meeting time, are displayed below:

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[214] PSCA, *67th Annual Survey of Profit Sharing and 401(k) Plans* (2024), and PSCA, *68th Annual Survey of Profit Sharing and 401(k) Plans* (2025).

[215] The Department examined the rates based on plan size however the size classes presented in the survey results do not line up perfectly with Departmental plan size definitions. Generally, the Department averaged the rates by size and rounded to increments of 5 percent.

TABLE 15.—*Investment Committee Meeting Frequency, by Plan Size*

Meeting Frequency	Share of Plans	Number of Plans	Number of Meetings
Annually	25%	157,596	157,596
Semi-Annually	20%	126,077	252,154
Quarterly	55%	346,712	1,386,848
Total			**1,796,598**

TABLE 16.—*Cost Savings for Meeting Preparation*

Monitoring Frequency	Number of Affected Plans, by Meeting Frequency	Number of Service Providers Affected[1]	Number of Analyses Conducted Annually	Change in Legislative Risk Preparation (Hours)	Investment Committee Meeting Preparation Time Savings	Hourly Cost of Legal Professional	Total Cost Savings
(a)	(b)	(c)	(b + c) x a = d	(e)	(d x e) = f	(g)	(f x g) = h
Annually	23,639	0	23,639	-2	-47,279	$174.77	-$8,262,916
Semi-Annually	18,912	0	37,823	-2	-75,646	$179.96	-$13,613,290
Quarterly	52,007	5,350	208,027	-2	-416,054	$201.38	-$83,785,035
Total	**94,558**	**5,350**	**269,490**		**-538,979**		**-$105,661,241**

[1] All outside service providers are assumed to perform quarterly analyses.

TABLE 17.—*Cost Savings for Meeting Time*

Plan Size	Meeting Participants	Hourly Cost of Professional	Estimated Reduction in Meeting Duration (hours)	Total Cost Savings, per meeting attended	Meeting Attendees	Total Meetings	Total Savings
		(a)	(b)	(a x b) = c	(d)	(e)	(c x d x e) = g
Small Plans	Legal Professional	$174.77	-1/2	-$87.39	0	1,796,598	$0
	Financial Manager or Investment Professional	$201.38	-1/2	-$100.69	0		$0
	Top Executive	$143.75	-1/2	-$71.88	1		-$129,130,481
	Benefits & Compensation Manager	$179.96	-1/2	-$89.98	1		-$161,657,888
	Administrative Professional	$72.53	-1/2	-$36.27	1		-$65,153,626
Total Estimated Savings							**-$355,941,996**

14.3.4. Per-Entity Costs

The Department has also analyzed the costs and benefits of the proposal on a per-entity basis, under various per-entity assumptions for both the costs and benefits of the proposal. These scenarios present per-entity effects based on the frequency and functions of their investment committee, as well as what functions the entities perform in-house versus with a service provider to provide a range of estimates. The per-entity costs and savings of the proposal under multiple assumptions are displayed below, including these costs and savings as a share of plan assets.

TABLE 18.—*Per-Entity Costs*

Cost	Average Cost Per-Entity cost estimate	High Per-Entity Cost Estimate
Rule Review[1]	$146	$874
Requesting Additional Documentation from Financial Advisor[2]	$2	$48

[1] The high-cost assumption for rule review presents a plan that does rule review entirely in-house. The average cost assumption assumes that 90 percent of small entities rely on service providers for rule review.

[2] The high-cost assumption for additional documentation presents the costs for a specific plan with a TDF containing alternative assets to request additional documentation if they believe they need it for due diligence. Very few plans currently have these products. The average cost estimate divides these costs across all small entities.

TABLE 19.—*Per-Entity Cost Savings*

Cost	Low Per-Entity Cost Savings[1]	Average Per-Entity Cost Savings[2]	High Per-Entity Cost Savings[3]
Meeting Time Savings-Executive	(-$72)	(-$205)	(-$288)
Meeting Time Savings-Benefits Manager	(-$90)	(-$256)	(-$360)
Meeting Time Savings-Admin. Professional	(-$36)	(-$103)	(-$145)
Meeting Time Preparation	(-$350)	(-$996)	(-$1,398)
Total Savings	(-$548)	(-$1,561)	(-$2,191)

[1] The low-cost savings assumption presents plans with annual investment committee meetings
[2] The average cost-savings assumption uses the average number of annual investment committee meetings per-plan, which is approximately 2.85
[3] The high-cost savings assumption presents plans with quarterly investment committee meetings

TABLE 20—*Total Per-Entity Effect*

Effect	Low Per-Entity Cost Savings[1]	Average Per-Entity Cost Savings[2]	High Per-Entity Cost Savings[3]
Costs	$922	$147	$147
Cost Savings	(-$548)	(-$1,561)	(-$2,191)
Total Per-Entity Costs/Cost Savings	$374	(-$1,414)	(-$2,044)

TABLE 21.—Total *Per-Entity Effect as a share of Plan Assets*

Plan Size	Average Plan Assets	Low Per-Entity Cost Savings[1]	Average Per-Entity Cost Savings[2]	High Per-Entity Cost Savings[3]
1-5 Participants	$243,438	0.15%	(-0.58%)	(-0.84%)
6-10 Participants	$636,975	0.06%	(-0.22%)	(-0.32%)
11-20 Participants	$815,795	0.05%	(-0.17%)	(-0.25%)
20-40 Participants	$1,164,525	0.03%	(-0.12%)	(-0.18%)
40-60 Participants	$1,900,593	0.02%	(-0.07%)	(-0.11%)
60-80 Participants	$2,988,649	0.01%	(-0.05%)	(-0.07%)
80-100 Participants	$4,050,638	0.01%	(-0.03%)	(-0.05%)

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14.4. Duplicate, Overlapping, or Relevant Federal Rules

This proposal narrowly focuses on the duties of fiduciaries selecting designated investment alternatives for plans under ERISA. While other federal rules oversee the practices of investment managers, given the narrow focus of this proposal, the Department is not aware of any other rules that would duplicate, overlap, or be relevant to this proposal.

14.5. Significant Alternatives Considered

Section 603 of the RFA requires the Department to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. The objective for this proposal is to clarify the standard for the selection of designated investment alternatives, and reduce litigation risk as discussed in the Regulatory Impact Analysis. The Department considered the alternatives presented in the following sections.

14.5.1. Limiting the Safe-Harbor To Inclusion of Alternative Assets in Allocation Funds

The Department considered limiting the proposed safe harbor to just alternative assets and their inclusion in an asset allocation fund, such as a target date fund, an adviser managed account, or any other investment vehicle which invests in a diversified pool of assets across multiple asset classes. However, the Department decided to take a more expansive approach regarding both the class of investments and the investment vehicles to which the safe harbor applies. By remaining neutral on the types of assets and vehicles, defined contribution plan fiduciaries can apply the specified review methodology outlined in this proposed rule to an array of potential designated investment alternatives. This reduces the relative compliance burden on plans, including small plans, by allowing them to familiarize themselves with one asset-neutral safe harbor, rather than a specialized safe harbor only for specific asset classes.

14.5.2. Expanding the Safe Harbor to the Selection of All Investment Options, Products, and Service Providers

The Department also considered a far broader safe harbor that would extend fiduciary protections to the selection of all investment options, products, and service providers. Under this alternative, plan fiduciaries adhering to the processes outlined in the safe harbor

to prudently select and monitor not only investment options but also their service providers, would not have any liability under sections 404 or 406 regarding the selection of a designated investment alternative, service provider, or other products. The Department, while acknowledging that such a proposal would provide significant relief to plan sponsors offering employee benefits while also remaining asset-neutral regarding plan offerings, felt there was too great a chasm between the processes for selecting designated investment alternatives and the processes for selecting and assessing contracts with services provider, and that it went beyond the objective of the proposal.

14.5.3. Including Curation of a Menu of Investments Overall

The Department's proposed rule and safe harbor focuses on plan fiduciaries' prudent selection of individual designated investment alternatives for participant-directed individual account plans. The Department considered expanding the proposed regulation to include guidance on how to prudently curate a menu of investments overall to address the fact that ERISA's duty of prudence applies not just to the selection of each designated investment alternative but also to the collection of designated investment alternatives as a whole–*i.e.,* to both the individual parts and the sum. After careful review, the Department decided that the question of menu design is better served under section 404(c) of ERISA, which provides relief for many participant-directed individual account plans that offer a broad range of investment options that meet specified diversification and risk and return requirements.

14.5.4. Monitoring Obligation

The Department considered incorporating into the proposed rule a safe harbor for a fiduciary's duty to monitor designated investment options at regular intervals after their selection process. Many of the criteria and processes associated with selecting an investment option are relevant to the duty of monitoring said selection, and the courts have been clear that ERISA fiduciaries have a continuing obligation to monitor all plan investments—not just a subset—and to remove options that the fiduciary determines, after a rigorous process, are no longer appropriate.

However, the Department anticipates issuing interpretive guidance in the near term concerning fiduciary obligations under ERISA to monitor designated investment alternatives following their inclusion on a plan's menu. As a result, the Department opted not to include these obligations in the proposed rule and safe harbor.

14.5.5. Small Entity Specific Alternatives

Regulatory Flexibility Act analyses typically consider small entity specific alternatives, such as differing compliance requirements, timetables, specific small entity exemptions, or other scenarios listed in 603(c) of the Regulatory Flexibility Act.[216] However, the Department's proposal does not include any direct requirements from the Department that could be delayed, exempted, or otherwise tailored to small entities.

The largest costs detailed in the proposal, rule review, are not direct requirements from the Department, but rather an acknowledgement that most plans will review the rule in some form as a part of standard business practices. The timeline and manner of rule review is at the discretion of the plans and, thus, is not something that the Department can exempt or tailor to small entities as a part of the RFA.

The other costs detailed in the RIA and the RFA are the costs on plans with alternate assets to request additional documentation from a financial professional to satisfy the consideration and determination requirements of the safe harbor. Plans are not required to obtain this written documentation by the proposal, but the Department acknowledges that some plans will choose to take this extra step as part of their compliance efforts. Since neither of these costs are mandated by the Department, the Department cannot tailor or exempt small plans from these costs, but small plans can use their discretion to determine the manner and timeline of their rule review and safe harbor compliance procedures. As a result, exempting or delaying implementation of the rule for small entities would also not be feasible. Since there are no direct cost requirements in the proposal, an exemption or delay of the rule as a whole would only prevent small plans from being able to use the safe harbor, which would prevent them from accessing the savings afforded by the updated safe harbor.

15. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [217] requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposal that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. For purposes of the Unfunded Mandates Reform Act, as well as Executive Order 12875, this proposal does not include any Federal mandate that will result in such expenditures.

16. Federalism Statement

Executive Order 13132 outlines fundamental principles of federalism. Executive Order 13132 requires Federal agencies to follow specific criteria in forming and implementing policies that have ''substantial direct effects'' on the States, the relationship between the national Government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have federalism implications must consult with State and local officials and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to the proposal.

This proposal does not have federalism implications because it has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements implemented in the final rule do not alter the fundamental reporting and disclosure requirements of the statute with respect to employee benefit plans, and, as such, have no implications for the States or the relationship or distribution of power between the national government and the States.

List of Subjects in 29 CFR Part 2550

Employee benefit plans, Employee Retirement Income Security Act, Fiduciaries, Investments, Pensions, Securities.

For the reasons set forth in the preamble, the Department is proposing to amend part 2550 of subchapter F of Chapter XXV of Title 29 of the Code of Federal Regulations as follows:

[216] See 5 U.S.C. 603(c).

[217] 2 U.S.C. 1532.

SUBCHAPTER F—FIDUCIARY RESPONSIBILITY UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

■ 1. The authority citation for part 2550 continues to read as follows:

Authority: 29 U.S.C. 1135, sec. 102, Reorganization Plan No. 4 of 1978, 5 U.S.C. App. at 727 (2012) and Secretary of Labor's Order No. 1–2011, 77 FR 1088 (Jan. 9, 2012). Sec. 2550.401c–1 also issued under 29 U.S.C. 1101. Sec. 2550.404a–1 also issued under sec. 657, Pub. L. 107–16, 115 Stat 38. Sec. 2550.404a–2 also issued under sec. 657 of Pub. L. 107–16, 115 Stat. 38. Secs. 2550.404c–1 and 2550.404c–5 also issued under 29 U.S.C. 1104. Sec. 2550.408b–1 also issued under 29 U.S.C. 1108(b)(1). Sec. 2550.408b–19 also issued under sec. 611, Pub. L. 109–280, 120 Stat. 780, 972. Sec. 2550.412–1 also issued under 29 U.S.C. 1112.

■ 2. Amend part 2550 by adding § 2550.404a–6 to read as follows:

§ 2550.404a–6 Selection of Designated Investment Alternatives—relevant factors and determinations for fiduciaries of individual account plans to satisfy prudence requirement.

(a) *General prudence.* Section 404(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), provides, in relevant part, that a fiduciary shall discharge that person's duties with respect to a plan with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(b) *Selecting designated investment alternatives is a fiduciary act.* The selection of a designated investment alternative (as defined in paragraph (m) of this section) for a participant-directed individual account plan is a fiduciary act governed by the fiduciary standards of section 404(a)(1)(B) of ERISA.

(c) *Prudent fiduciaries have maximum discretion to select investments to further the purposes of the plan.* Section 404(a)(1)(B) of ERISA does not require or restrict any specific type of designated investment alternative, except insofar as a designated investment alternative might be otherwise illegal. For example, there is no *per se* rule respecting investment in alternative assets generally or the inclusion of private market investments, including direct and indirect interests in equity, debt, or other financial instruments that are not traded on public exchanges, including those where the managers of such investments, if applicable, seek to take an active role in the management of such companies, direct and indirect interests in real estate, including debt instruments secured by direct or indirect interests in real estate, holdings in actively managed investment vehicles that are investing in digital assets, direct and indirect investments in commodities, direct and indirect interests in projects financing infrastructure development, and lifetime income investment strategies including longevity risk-sharing pools. However, an investment in a foreign adversary in violation of applicable law, such as the Trading With the Enemy Act, or with any such person or other entity or individual appearing on the Specially Designated Nationals and Blocked Persons List administered by the Office of Foreign Assets Control of the United States Department of the Treasury, or any other type of investment in violation of applicable federal law, is not permitted.

(d) *Duty to act prudently when establishing a plan investment menu to maximize risk-adjusted returns.* A fiduciary with responsibility or authority for selecting designated investment alternatives has a duty to act prudently also when establishing a diversified menu of designated investment alternatives to further the purposes of the plan by enabling participants and beneficiaries in such plan to maximize risk-adjusted returns, net of fees, on investment across their entire portfolios in their plan.

(e) *Prudence requires appropriate consideration of all relevant factors.* To satisfy the duty of prudence in section 404(a)(1)(B) of ERISA when selecting a designated investment alternative, the plan fiduciary must follow a prudent process under which it gives appropriate consideration, including, where appropriate, with the benefit of analysis of professional advisors like third-party investment advice fiduciaries within the meaning of section 3(21)(A)(ii) of ERISA, to those facts and circumstances that, given the scope of such fiduciary's investment responsibility or authority, the fiduciary knows or should know are relevant to the particular designated investment alternative. Consistency with section 404(a)(1)(B) of ERISA or this paragraph does not, however, excuse a fiduciary from complying with its additional obligations under ERISA, including under sections 404(a)(1)(A) and 406.

(f) *Safe harbor.* Paragraphs (g) through (l) of this section set forth a non-exhaustive list of factors, when applicable, that a plan fiduciary that is responsible for establishing and maintaining a plan investment menu of designated investment alternatives for a participant-directed individual account plan must objectively, thoroughly, and analytically consider, and make determinations on, when selecting each such designated investment alternative for the plan investment menu. When a plan fiduciary does so, following the process described in paragraphs (g) through (l) with respect to such factors, which may include relying on recommendations of a prudently selected investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA with respect to a particular factor or factors, or prudently delegating compliance with respect to a particular factor or factors to an investment manager within the meaning of section 3(38) of ERISA, the plan fiduciary's judgment with respect to the particular factor or factors, including the relationship between the factors, is presumed to have met the duties under section 404(a)(1)(B) of ERISA of such fiduciary and is entitled to significant deference.

(g) *Performance.* The plan fiduciary must appropriately consider a reasonable number of similar alternatives and determine that the risk-adjusted expected returns, over an appropriate time-horizon, of the designated investment alternative, net of anticipated fees and expenses, further the purposes of the plan by enabling participants and beneficiaries to maximize risk-adjusted returns on investment net of fees and expenses.

(1) *Example. Return*—(i) *Facts.* The named fiduciary of a plan (*e.g.,* the plan sponsor or plan investment committee), working with a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, considers three target date fund series. The investment advice fiduciary presents various risk measures for the named fiduciary to consider, including the Sharpe Ratio, a commonly used measure to assess risk-adjusted performance, and a risk-adjusted return measure that subtracts a risk penalty from returns. The investment advice fiduciary explains these concepts and their implications to the named fiduciary that then relies on this advice to select a target date fund series that has lower expected returns but lower expected risk, as measured by volatility. The named fiduciary makes this selection after considering the risk capacity of the plan's participants. The lower risk strategy that the named fiduciary selects has achieved higher risk-adjusted returns by including alternative assets with low correlations to stocks and

bonds in its investment portfolio, thereby reducing the volatility of returns.

(ii) *Analysis.* Plan fiduciaries, with the benefit of third-party investment advice when appropriate, need not select an investment with the highest returns, nor aim to achieve the highest possible returns. It is often prudent to select a lower-risk investment strategy with a lower expected return. Plan fiduciaries may wish to consider selecting investments that hold alternative assets with low correlations to stock and bonds in their portfolios for exactly this purpose of improving risk-adjusted returns.

(iii) *Conclusion.* A plan fiduciary selecting a designated investment alternative should consider various risk metrics when evaluating investments. The plan fiduciary should seek to maximize returns, net of fees, for a given level of appropriate risk, consistent with the participants' likely needs over the course of the anticipated investment. By doing so, including by engaging and relying on third-party investment advice, as appropriate, to analyze and explain how to evaluate risk, the plan fiduciary shall be deemed to have satisfied the requirements of paragraph (g) of this section.

(2) *Example. Time horizon*—(i) *Facts.* The named fiduciary of a plan (*e.g.,* the plan sponsor or plan investment committee) with a predominantly younger workforce, working with a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, considers three target date fund series. The investment advice fiduciary analyzes the historical performance of each series over the past 1-, 3-, 5-, and 10-year periods. After considering the historical performance data for these periods, the named fiduciary adopts the investment advice fiduciary's recommendation to rely most heavily on the 10-year historical performance data as most probative for purposes of selecting the designated investment alternative.

(ii) *Analysis.* A plan fiduciary, with the benefit of third-party investment advice fiduciaries, when appropriate, need not select an investment strategy with the highest returns during a short or most recent period of time. Given the long-term nature of retirement savings, it is often prudent to give greater weight to the long-term historical performance of possible designed investment alternatives over short-term performance.

(iii) *Conclusion.* A plan fiduciary selecting a designated investment alternative should consider the appropriate time horizons for retirement savings. In so doing, the plan fiduciary should seek to maximize returns for a given level of appropriate risk, consistent with the participants' likely needs over the course of the anticipated investment, which, because of the long-term nature of retirement savings, may be a long time horizon, depending on the particular facts and circumstances. By doing so, including by engaging and relying on third-party investment advice, when appropriate, to analyze and explain how to evaluate past performance, the plan fiduciary shall be deemed to have satisfied the requirements of paragraph (g) of this section.

(h) *Fees.* The plan fiduciary must consider a reasonable number of similar alternatives and determine that the fees and expenses of the designated investment alternative are appropriate, taking into account its risk-adjusted expected returns and any other value the designated investment alternative brings to furthering the purposes of the plan. For this purpose, the term ''value'' includes any benefits, features, or services other than risk-adjusted returns. Section 404(a)(1)(B) of ERISA and paragraph (h) of this section are not violated solely because the fiduciary does not select the alternative with the lowest fees and expenses from among the alternatives considered. For example, a prudent plan fiduciary could choose to pay more in exchange for greater services.

(1) *Example. Fees; Customer service*—(i) *Facts.* The named fiduciary of a plan (*e.g.,* the plan sponsor or plan investment committee) considers five stock funds that follow similar strategies in passively tracking the same index. The named fiduciary evaluates the funds with the assistance of a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA and finds that the five funds have had similar historical risk-adjusted returns and liquidity, and that the funds have very different ratings for customer service and communication. The named fiduciary selects the fund with the highest fees and highest rating for customer service and communication. This fund offers knowledgeably staffed call centers dedicated to retirement plan investors, short wait times, clearly written investor communications, safe and easy online access for participants, and published surveys and ratings that demonstrate an exceptional commitment to customer service. The difference between the funds with lowest and highest fees is one quarter of one basis point.

(ii) *Analysis.* A plan fiduciary must consider a reasonable number of similar alternatives before selecting a designated investment alternative. Although the determination of what constitutes a reasonable number is dependent upon the specific facts and circumstances of each case, section 404(a)(1)(B) of ERISA and paragraph (h) of this section do not require a plan fiduciary to consider every similar alternative available in the market. Likewise, whether alternatives are similar is dependent on the specific facts and circumstances of each case. After considering a reasonable number of similar alternatives, a plan fiduciary must determine that the fees and expenses of the designated investment alternative are appropriate, taking into account its expected risk-adjusted returns and the value the designated investment alternative brings in furthering the purposes of the plan. All else being equal, a plan fiduciary must rely on the value proposition of a designated investment alternative with higher fees and expenses than similar alternatives with lower fees and expenses when choosing that designated investment alternative.

(iii) *Conclusion.* The named fiduciary in this example does not fail to satisfy section 404(a)(1)(B) of ERISA and paragraph (h) of this section solely because it did not select the alternative with the lowest fees and expenses. The named fiduciary enlisted the services of an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA. The named fiduciary considered and determined that the five specific alternatives were a reasonable number of alternatives to have considered, taking into account the role of the designated investment alternative in furthering the purposes of the plan, their similar strategies, historical performance, and liquidity. In addition, the named fiduciary considered and determined that the higher fees and expenses are appropriate considering the value of increased customer service and communication.

(2) *Example. Fees; Share classes*—(i) *Facts.* A plan sponsor decides to establish a participant-directed defined contribution plan. The plan document specifies that the director of human resources is the named fiduciary of the plan and responsible for the establishment of the plan investment menu and selection and monitoring of designated investment alternatives. The named fiduciary does not enlist the services of an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, an investment manager within the meaning of section 3(38) of ERISA, or any other type of professional consultant. The named

fiduciary purchases a subscription to an independent analysis ratings firm to research investment options before making a selection. The service rates funds overall but does not attach ratings to different share classes of the same fund. After a few years, the named fiduciary decides to replace one of the plan's designated investment alternatives with a new fund, and to move participant investments from the old designated investment alternative to the new fund pursuant to ERISA section 404(c)(4). The new fund selected by the named fiduciary has high ratings from the service to which the named fiduciary subscribes and is a registered investment company within the meaning of the Investment Company Act of 1940. The named fiduciary makes a substantial investment in class R2 shares of the fund. The named fiduciary does not consider any differences in share classes offered by this fund. The fund offers multiple share classes, including multiple R share classes. Class R2 shares have substantially higher fees than class R6 shares. Based on the amount of the investment, the named fiduciary could have purchased class R6 shares without any negotiation or additional expenditure of plan assets or resources. Except for fee structures, both share classes are identical in terms of shareholder rights and obligations.

(ii) *Analysis.* A fiduciary must consider a reasonable number of similar alternatives and determine that the fees and expenses of the designated investment alternative are appropriate, taking into account the designated investment alternative's risk-adjusted expected returns and any other value the designated investment alternative brings to furthering the purposes of the plan. The named fiduciary failed to give any consideration to the differences in fees between the various share classes of the fund, even though the size of the investment met the fund's criteria for the lower fee share classes without any negotiation or additional expenditure of plan assets or resources. Class R6 shares have a superior value proposition to class R2 shares because both share classes are identical in all respects except that class R6 shares have lower fees.

(iii) *Conclusion.* The facts in this example do not establish that the named fiduciary satisfied section 404(a)(1)(B) of ERISA and paragraph (h) of this section when selecting the designated investment alternative. The selection process appears to be flawed because the named fiduciary failed to consider the difference in fee structures among the various share classes. A prudent selection process would ordinarily uncover the existence of more economical share class options for the plan.

(3) *Example. Fees; Lifetime income*—(i) *Facts.* A plan sponsor makes a plan design decision to add a lifetime income benefit to its existing participant-directed individual account plan. The named fiduciary of the plan selects an asset allocation fund offered through a variable annuity contract to implement the plan sponsor's decision. The new designated investment alternative is similar in all material respects—risk, return, liquidity, and allocation profile—to another designated investment alternative already on the plan investment menu except that the designated investment alternative already on the plan investment menu does not offer lifetime income through a variable annuity contract. The two designated investment alternatives have the same expense ratio, but the designated investment alternative offered through the variable annuity contract has an additional fee associated with the ability of participants to select the lifetime income feature. The additional fee typically secures more favorable annuity conversion rates throughout the life of the contract than would be available outside of the contract. The named fiduciary consults with an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA. The investment advice fiduciary analyzes the annuity market generally, as well as the break-even ages and additional fee of the designated investment alternative, which analysis the named fiduciary critically evaluates and adopts in determining, within its discretion, that the designated investment alternative with the lifetime income benefit provides commensurate value for the fees charged.

(ii) *Analysis.* The named fiduciary must act prudently when implementing the plan sponsor's decision to add a lifetime income benefit to the plan. Although the named fiduciary must appropriately consider a reasonable number of similar alternatives, the designated investment alternative already on the plan investment menu satisfies this standard because it is both sufficiently different from the designated investment alternative being added to the plan investment menu due to its lifetime income benefit feature and sufficiently comparable because it is identical in each other material respect. The lifetime income feature has added value to the plan and therefore justifies higher total fees than the designated investment alternative without this feature.

(iii) *Conclusion.* The named fiduciary in this example did not act imprudently by adding the new designated investment alternative to the plan investment menu solely because it has higher fees than the similar designated investment alternative without the lifetime income benefit feature that is already on the plan investment menu. To satisfy the consideration and determination requirements under paragraph (h) of this section, and section 404(a)(1)(B) of ERISA, the named fiduciary considered and determined that the additional fee under the variable annuity contract is appropriate in relation to the value it brings to furthering the purposes of the plan.

(4) *Example. Fees; Risk mitigation strategies*—(i) *Facts.* A participant-directed defined contribution plan contains a custom-designed designated investment alternative that is a qualified default investment alternative (target date fund), managed by an investment manager within the meaning of ERISA section 3(38), with a strategy that targets specific percentages of stocks and bonds that trade on public exchanges. As part of a review of the plan's investment menu, the named fiduciary with responsibility for selecting the qualified default investment alternative considers the investment manager's proposed modification of the designated investment alternative's strategy to target investment in specific percentages of hedge funds and private equity funds while reducing target percentages of publicly traded stocks and bonds. The purpose of the modification is risk mitigation—meaning, to decrease volatility and reduce the risk of large losses during a market downturn. Under certain market conditions, a potential consequence is the designated investment alternative may underperform as compared to the continued use of the unmodified strategy, but it provides downside protection as an additional value. The named fiduciary enlists the services of a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA to analyze the new target percentages and the hedge fund and private equity funds for investment by the designated investment alternative, as well as detailed information about the investment strategies and fee structures of these funds. The third-party investment advice fiduciary also provides the named fiduciary with a written report stochastically modeling estimated risk-adjusted returns stemming from the adoption of the modifications and

comparing the target date fund, as modified, to a reasonable number of similar alternatives. Although the designated investment alternative's expense ratio would increase slightly, the report shows an improvement in the risk-adjusted expected returns, net of fees, over a horizon determined to be appropriate for the target date fund.

(ii) *Analysis.* In this example, the named fiduciary is not making an original selection of a designated investment alternative. Yet because the change in strategy proposed by the investment manager implicates the principal objectives of the target date fund, implementing the described modification is tantamount to selecting a designated investment alternative from scratch. Consequently, the named fiduciary must consider a reasonable number of similar alternatives to the target date fund, as modified, and determine that its fees and expenses are appropriate, taking into account its risk-adjusted expected returns and any other value it brings to furthering the purposes of the plan. That the target date fund is customized does not negate the requirement to appropriately consider a reasonable number of similar alternatives. Whether the alternatives considered are similar depends on the facts and circumstances of the case. Factors commonly used by investment professionals in like circumstances include risk, return, liquidity, and allocation profile.

(iii) *Conclusion.* The named fiduciary in this example satisfies the consideration and determination requirements of paragraph (h) of this section, and section 404(a)(1)(B) of ERISA, with respect to the fees and expenses of the target date fund as modified. The named fiduciary enlisted the services of an investment advice fiduciary. The investment advice fiduciary provided the named fiduciary with a written report stochastically modeling estimated risk-adjusted returns stemming from the adoption of the modifications and comparing the target date fund, as modified, to a reasonable number of similar alternatives. The named fiduciary considered and determined within its discretion that the modification to the target date fund to include the risk mitigation strategy furthered the purposes of the plan, including decreasing volatility and reducing the risk of large losses during a market downturn. In addition, the named fiduciary considered and determined, within its discretion, that the higher expense ratio associated with the modification was appropriate in light of the estimated higher risk-adjusted expected returns, net of fees and expenses, over an appropriate horizon for the target date fund.

(5) *Example. Fees; Active management*—(i) *Facts.* The named fiduciary of a plan (*e.g.,* the plan sponsor or plan investment committee) considers six small-cap stock funds. Three of the funds passively track the same index while three of the funds are actively managed, attempting to outperform the passive index. The passive funds are all comparably priced to each other, and the actively managed funds are comparably priced to each other. However, the actively managed funds all have higher fees and expenses than the passive funds. The named fiduciary evaluates the funds with the assistance of a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA and finds that one of the passive funds has had lower tracking error and fees compared to the other two passive funds and one of the actively managed funds has had outstanding historical risk-adjusted returns compared to all of the passive funds as well as the other two actively managed funds, despite the other two actively managed funds having adopted a similar investment strategy. The named fiduciary selects both the highest performing actively managed fund as well as the passive fund with lowest tracking error and fees based on advice from the third-party investment advice fiduciary that allowing participants to gain exposure to actively managed and passive funds will increase their risk-adjusted return on investment net of the additional fees charged by the actively managed fund.

(ii) *Analysis.* The named fiduciary must consider a reasonable number of similar alternatives to the funds it selects, and determine that their fees and expenses are appropriate, taking into account their risk-adjusted expected returns and any other value they bring to furthering the purposes of the plan. A plan fiduciary may choose to offer both an actively managed and a passive fund within a particular strategy to secure diversification benefits for participants across the plan investment menu. In so doing, the plan fiduciary may conclude that the value of these diversification benefits justifies the selection of an actively managed fund that charges higher fees than a passive counterpart.

(iii) *Conclusion.* The named fiduciary in this example satisfies the consideration and determination requirements of paragraph (h) of this section, and section 404(a)(1)(B) of ERISA, with respect to the fees and expenses of both funds. The named fiduciary enlisted the services of an investment advice fiduciary. The investment advice fiduciary fully compared and analyzed the profiles of the actively managed and passive funds. The investment advice fiduciary also provided the named fiduciary with professional advice about the benefits of diversified portfolios. The named fiduciary considered and determined, within its discretion, that selecting the highest performing actively managed and passive funds furthered the purposes of the plan by increasing risk-adjusted return through the increased value of additional diversification.

(i) *Liquidity.* The fiduciary must appropriately consider and determine that the designated investment alternative will have sufficient liquidity to meet the anticipated needs of the plan at both the plan and individual levels. For example, because participant-directed individual account plans are long-term retirement savings vehicles, particularly for participants early in their careers, there is no requirement that a fiduciary select only fully liquid products. Indeed, a prudent fiduciary process may regularly lead to a decision to sacrifice some plan- or individual-level liquidity, or both, in pursuit of additional risk-adjusted return.

(1) *Example. Participant-level liquidity*—(i) *Facts.* Certain participant-level events, depending on the terms of the plan, may trigger a plan's need for immediate liquidity. Examples of these events include, but are not limited to, participant benefit withdrawals due to retirement, separation from service, or financial hardship, asset reallocations or reinvestments to other designated investment alternatives in the case of plans intended to meet the requirements of section 404(c) of ERISA, and plan loans.

(ii) *Analysis.* Plan fiduciaries must give consideration to the potential for such events when selecting designated investment alternatives, especially qualified default investment alternatives (as defined in 29 CFR 2550.404c–5), for a plan investment menu. Further, on the basis of such consideration, the plan fiduciary must determine that the designated investment alternative, at the time of selection, will have sufficient liquidity to meet the anticipated liquidity needs of the plan.

(iii) *Conclusion.* The participant-level liquidity needs of a given plan depend on the type of plan at issue, its features, and the overall profile of the participants and beneficiaries of the plan as a whole, particularly with respect to a qualified default investment alternative (as defined in 29 CFR

2550.404c–5), as well as, to the extent they are different, the participants and beneficiaries likely to select the particular designated investment alternative under review. A plan fiduciary, however, is deemed to have met the consideration and determination requirements of paragraph (i) of this section, and section 404(a)(1)(B) of ERISA, with respect to the participant-level liquidity needs of a given plan in connection with a given designated investment alternative (including one that holds a percentage of assets that are not securities, non-publicly traded securities, or securities acquired in exempt offerings) that is a mutual fund registered as an open-end management investment company with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940. Such mutual funds are required by rules under such Act to adopt and implement a written liquidity risk management program that is designed to assess and manage their liquidity risk. In the case of a designated investment alternative that is not such a mutual fund, a plan fiduciary will be deemed to have met the consideration and determination requirements of paragraph (i) of this section and section 404(a)(1)(B) of ERISA if three conditions are met. First, the fiduciary obtains a written representation from the person responsible for managing the designated investment alternative, or otherwise performs appropriate due diligence, that the designated investment alternative has adopted and implemented a liquidity risk management program that is substantially similar to a program that meets the requirements of such Act. Second, the fiduciary reads, critically reviews, and understands any written representation and consults a qualified professional where appropriate. Third, the fiduciary does not know, or have reason to know, other information which would cause the fiduciary to question any written representation.

(2) *Example. Participant level liquidity; lifetime income*—(i) *Facts.* The investment policy statement of a participant-directed individual account plan calls for lifetime income options on the plan investment menu. The named fiduciary selects several designated investment alternatives with such features, including a deferred annuity contract. Allocations to this contract, which are made on a monthly basis, grow at a rate specified under the contract, and monthly payments for life begin when the participant reaches age 65. Allocations to this contract become fully committed after 90 days and any immediate withdrawals by a participant before age 65 result in a penalty and a market value adjustment to the value of the annuity that begins at age 65. The restrictions on liquidity throughout the growth period enable greater monthly payments at age 65.

(ii) *Analysis.* Paragraph (i) of this section clarifies that plan fiduciaries must appropriately consider the potential participant-level events that may trigger a plan's need for immediate liquidity, and must determine that the designated investment alternative, at the time of selection, will have sufficient liquidity to meet the anticipated liquidity needs of the plan. When assessing the liquidity needs of the plan, the plan fiduciary in this example must balance the restrictions on liquidity under the annuity contract with the value of the guaranteed monthly payments under the annuity contract, recognizing that such guarantees help plan participants manage investment and longevity risk. The fact that a designated investment alternative is fully allocated to an illiquid product, like an annuity, does not foreclose its selection, including, for example, where the fiduciary determines within its discretion that the lack of liquidity is justified by a commensurate expected increase in return on investment, certainty with respect to future payments, or both.

(iii) *Conclusion.* In this example, the named fiduciary would satisfy the consideration and determination requirements of paragraph (i) of this section, and section 404(a)(1)(B) of ERISA, with respect to the designated investment alternative in question if the named fiduciary concluded that the increase in the value of the monthly payments and the certainty of the insurer's guarantee under the annuity contract justified the restrictions on liquidity.

(3) *Example. Plan-level liquidity*—(i) *Facts.* Plan terminations, changes in plan recordkeepers or investment providers, and corporate sponsor mergers and acquisitions are examples of circumstances that may impose relatively short-term liquidity demands on a plan's designated investment alternatives. This is especially true in the case of a designated investment alternative (such as a pooled investment vehicle) with a strategy involving a target position in certain private assets along with public assets (*e.g.,* publicly traded securities). With such designated investment alternatives, a specific plan's (or, in a pooled investment product, other plan's or non-plan investors') need for relatively short-term liquidity (*e.g.,* when the investor wants to exit the investment) may present significant liquidity risk to the designated investment alternative as a whole such that it cannot maintain its asset allocation targets. Thus, in such circumstances, designated investment alternatives may or must impose temporal restrictions on redemptions (*e.g.,* they might require advance notice and permit only incremental redemptions over a period of time). When fulfilling withdrawals, particularly large withdrawals, diversified designated investment alternatives may temporarily deviate from their target asset allocations. For example, a designated investment alternative that is designed to have a 90 percent allocation to fully liquid instruments may have to temporarily accept a lower allocation to fully liquid instruments to satisfy a large withdrawal.

(ii) *Analysis.* Plan fiduciaries must give consideration to, and determine, that the scope and duration of redemption restrictions at the plan level meet the anticipated needs of the plan. This includes whether the designated investment alternative has a sufficient process in place to balance the plan's potential need for withdrawal against the plan's desire for the designated investment alternative to maintain smooth and consistent target positions, including following a significant withdrawal of investors other than the plan.

(iii) *Conclusion.* A plan fiduciary is deemed to have met the consideration and determination requirements of paragraph (i) of this section, and section 404(a)(1)(B) of ERISA, with respect to the plan-level liquidity needs of a given plan in connection with a given designated investment alternative (including one that holds a percentage of assets that are not securities, non-publicly traded securities, or securities acquired in exempt offerings) in either of the two following scenarios.

(A) In the first scenario, the plan fiduciary evaluates, including, if appropriate, with the advice of a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, in concert, the maximum that the designated investment alternative will allocate to illiquid investments, the time until such investments could likely be sold without reducing their value, the time until such investments will return capital to their investors, and the required advance notice plans must give before exiting the designated investment alternative. After this evaluation, the plan fiduciary concludes that the designated investment alternative will appropriately balance the future

liquidity needs of the plan, the ability of the designated investment alternative to achieve increased risk-adjusted return on investment, and the ability to maintain its asset allocation targets even if there were redemptions from multiple plans or non-plan investors.

(B) In the second scenario, the plan fiduciary relies on the fact that the designated investment alternative is a mutual fund registered as an open-end management investment company with the SEC under the Investment Company Act of 1940, which is required by rules under such Act to adopt and implement a written liquidity risk management program that is designed to assess and manage their liquidity risk. If the designated investment alternative is not such a fund, the fiduciary must meet three conditions. First, the fiduciary obtains a written representation from the person responsible for managing the designated investment alternative, or otherwise performs appropriate due diligence, that the designated investment alternative has adopted and implemented a liquidity risk management program that is substantially similar to a program that meets the liquidity risk management requirements under such Act. Second, the fiduciary reads, critically reviews, and understands any written representation and consults a qualified professional where appropriate. Third, the fiduciary does not know, or have reason to know, other information which would cause the fiduciary to question any written representation.

(4) *Example. Participant and plan-level liquidity*—(i) *Facts.* A participant-directed individual account plan offers a designated investment alternative that is a pooled investment vehicle with an investment strategy involving target positions in particular types of assets, including holdings in private assets. According to written representations from the person responsible for managing the product, it is structured so that the timing of the product's ability to liquidate private-asset investments aligns generally with the redemption rights of plans investing in the product. Representations also are made that the product permits quarterly redemptions by investors and does not otherwise impose any specific limits or restrictions on timing or payment of redemptions. For individual participants, representations are made to the plan fiduciary that the designated investment alternative has adopted and implemented a liquidity risk-management program that imposes requirements substantially similar to the requirements related to liquidity risk management programs for mutual funds registered as open-end management investment companies with the SEC under the Investment Company Act of 1940. The fiduciary reads, critically reviews, and understands the written representations and consults a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA. The fiduciary does not know, or have reason to know, other information which would cause the fiduciary to question the written representations.

(ii) *Analysis.* The example in paragraph (i)(1) of this section clarifies that plan fiduciaries must appropriately consider the potential participant-level events that may trigger a plan's need for immediate liquidity, and must determine that the designated investment alternative, at the time of selection, will have sufficient liquidity to meet the anticipated liquidity needs of the plan. Similarly, the example in paragraph (i)(3) of this section clarifies that plan fiduciaries must appropriately consider, and determine, that the scope and duration of redemption restrictions at the plan level meet the anticipated needs of the plan.

(iii) *Conclusion.* A plan fiduciary is deemed to have met the consideration and determination requirements of paragraph (i) of this section, and section 404(a)(1)(B) of ERISA, with respect to the participant-level and plan-level liquidity needs of a given plan in connection with a given designated investment alternative when the fiduciary determines within its discretion that the redemption structures under the product are appropriate to the needs of the plan after giving due consideration, including, where applicable, with the benefit of analysis of professional advisors, to the specific needs of the plan, including its need to maximize risk-adjusted return on investment.

(j) *Valuation.* The fiduciary must appropriately consider and determine that the designated investment alternative has adopted adequate measures to ensure that the designated investment alternative is capable of being timely and accurately valued in accordance with the needs of the plan.

(1) *Example. Valuation; Public exchanges*—(i) *Facts.* A participant-directed individual account plan offers a designated investment alternative that allows participants to acquire shares of a mutual fund registered as an open-end management investment company with the SEC under the Investment Company Act. Except for necessary cash reserves for operating expenses, all the underlying investments of the designated investment alternative trade daily on a public exchange. The exchange is a national securities exchange which is regulated under section 6 of the Securities Exchange Act of 1934.

(ii) *Analysis.* For purposes of determining the prudence of an investment, plan fiduciaries may rely on asset valuations derived from a national securities exchange or another similar, public exchange to the extent the exchange constitutes a generally recognized market through which the value of the investment is readily and accurately determinable in a timely manner.

(iii) *Conclusion.* The plan fiduciary is deemed to have met the consideration and determination requirements of paragraph (j) of this section, and section 404(a)(1)(B) of ERISA, with respect to this designated investment alternative, provided that the alternative's organizational documents or prospectus indicate that its value is determined in all material respects by reference to the price of the security as reflected on the exchange at the time of the valuation.

(2*) Example. Valuation; FASB 820*—(i) *Facts.* A participant-directed individual account plan offers a designated investment alternative that invests in some securities that trade daily on a public exchange and some securities for which there is not a generally recognized market. The manager of the designated investment alternative represents in writing that the securities for which there is not a generally recognized market are valued through a conflict-free, independent process no less frequently than quarterly, according to procedures that satisfy the Financial Accounting Standards Board Accounting Standards Codification 820, titled Fair Value Measurements (or any successor standard). The current value of each share of the designated investment alternative is then communicated in writing to the named fiduciary of the plan.

(ii) *Analysis.* For purposes of determining the prudence of an investment, plan fiduciaries may rely on asset valuations that result from the application of generally recognized procedures for measuring the fair value of assets for purposes of disclosure in financial statements prepared in accordance with U.S. generally accepted accounting principles, if applied through a conflict-free, independent process with respect to acquisition, disposition, or management of the assets.

(iii) *Conclusion.* The named fiduciary of this plan is deemed to have met the consideration and determination

requirements of paragraph (j) of this section, and section 404(a)(1)(B) of ERISA, with respect to this designated investment alternative under the following scenario. First, the named fiduciary reads, critically reviews, and understands the written representation, or otherwise performs appropriate due diligence on the valuation process, and consults a qualified professional where appropriate. Second, the named fiduciary does not know, or have reason to know, other information which would cause the named fiduciary to question any written representation. This conclusion would not change solely because the designated investment alternative permits its manager, acting in good faith, to adopt alternative valuation procedures if the manager determines and documents a temporary emergency that could result in a negative impact on investors if the generally applicable valuation procedures are followed (*e.g.,* if investors would be able to redeem their interests based on a valuation that the manager believes is inflated and that would result in a significant harm to remaining investors).

(3) *Example. Valuation; SEC rules*—(i) *Facts.* A participant-directed individual account plan offers a designated investment alternative that is a mutual fund registered as an open-end management investment company with the SEC under the Investment Company Act of 1940 and that contains some securities that trade daily on a public exchange and some securities for which there is not a generally recognized market. Under the Investment Company Act and rules thereunder, among other things, mutual funds are required to have audited financial statements prepared in accordance with generally accepted accounting principles. These audited financial statements include an auditor's report. The fiduciary reviews the fund's publicly-available financial statements and valuation-related disclosures to confirm compliance with all applicable requirements under the Investment Company Act related to pricing and valuation of its shares, or otherwise performs appropriate due diligence. The fiduciary also reviews the fund's Form N–1A prospectus disclosures to confirm that a majority of the fund's board is independent.

(ii) *Analysis.* For purposes of determining the prudence of an investment that is governed by the Investment Company Act, plan fiduciaries may rely on asset valuations that result from the application of reasonable valuation procedures adopted to comply with the Investment Company Act and rules thereunder.

(iii) *Conclusion.* The plan fiduciary of this plan is deemed to have met the consideration and determination requirements of paragraph (j) of this section, and section 404(a)(1)(B) of ERISA, with respect to this designated investment alternative under the following scenario. First, the fiduciary reads the fund's publicly available audited financial statements and valuation-related disclosures, or otherwise performs appropriate due diligence on the valuation process, and consults a qualified professional as appropriate. Second, the fiduciary does not know, or have reason to know, other information which would cause the fiduciary to question the veracity of the audited financial statements.

(4) *Example. Valuation; Conflicts of interest*—(i) *Facts.* The plan document for a participant-directed individual account plan specifies that the plan sponsor's chief financial officer is the named fiduciary of the plan and responsible for the establishment of the plan investment menu and selection and monitoring of designated investment alternatives. The named fiduciary selects as a designated investment alternative (or part of a broader investment alternative) a continuation fund (Fund) managed or controlled by an entity (Manager) that has recently acquired or contemplates an imminent acquisition of assets from an investment vehicle, such as another fund or vehicle with alternative assets, that is managed or controlled by the Manager or an affiliate of the Manager. The assets that were or will be purchased for the Fund from the investment vehicle do not trade on a public exchange and lack readily observable market prices, and the Manager was or will be able to control or influence—directly or indirectly—the price or other material terms on which the assets are transferred to the Fund. The Manager represents to the named fiduciary that valuation of the purchased assets is based on application of its proprietary valuation methods that rely on inputs provided by the Manager or its affiliates.

(ii) *Analysis.* The named fiduciary must assess whether the assets have been or will be valued through a conflict-free and independent process. When a designated investment alternative is a continuation fund that has recently acquired or contemplates an imminent acquisition of assets in a transaction that may be materially and adversely affected by a significant conflict of interest, the fiduciary must determine that the conflict of interest has not and will not render the designated investment alternative's valuation inaccurate. The facts do not demonstrate that the fiduciary can make this determination.

(iii) *Conclusion.* The facts in this example do not establish that the named fiduciary satisfied section 404(a)(1)(B) of ERISA and paragraph (j) of this section when selecting the designated investment alternative.

(k) *Performance benchmark.* The plan fiduciary must appropriately consider and determine that each designated investment alternative has a meaningful benchmark, and compare the risk-adjusted expected returns of the designated investment alternative to the meaningful benchmark. There may be more than one meaningful benchmark for a designated investment alternative, however no single benchmark is a meaningful benchmark for all designated investment alternatives on a plan investment menu. A ''meaningful benchmark'' is an investment, strategy, index, or other comparator that has similar mandates, strategies, objectives, and risks to the designated investment alternative. The ''risk-adjusted expected returns'' of the designated investment alternative may be determined based on its historical performance unless it has none, in which case it may be determined based on the historical performance of a different investment with similar mandates, strategies, objectives, and risks and that is not the meaningful benchmark. While a plan fiduciary should identify benchmarks that are as meaningful as possible, there is no presumption or preference against new or innovative designated investment alternative designs. Instead, when considering a new or innovative product design, a fiduciary should seek to identify the best possible comparators to it while also scrutinizing the potential value proposition presented by the new or innovative design.

(1) *Example. Benchmark; Misalignment of strategies*—(i) *Facts.* A participant-directed individual account plan offers a designated investment alternative that is a target date fund with an investment strategy and long-term objective of investing in different asset classes with varying degrees of risk, and which gradually becomes more conservative over time by adjusting the mix of asset classes. To compare the risk-adjusted expected returns of the target date fund to a meaningful benchmark, the named fiduciary compares the returns to a benchmark that is an index that only tracks the returns of large capitalization U.S. equities even though other benchmarks with more similarities to the designated investment alternative were readily available.

(ii) *Analysis.* Paragraph (k) of this section provides that a ''meaningful benchmark'' is an investment, strategy, index, or other comparator that has similar mandates, strategies, objectives, and risks to the designated investment alternative.

(iii) *Conclusion.* The facts in this example do not establish that the named fiduciary satisfied section 404(a)(1)(B) of ERISA and paragraph (k) of this section when selecting the designated investment alternative because the strategies of the benchmark are not similar to the investment strategy of the target-date fund and other benchmarks with more similarities were readily available.

(2) *Example. Custom composite benchmark; Private equity sleeve*—(i) *Facts.* The named fiduciary of a participant-directed individual account plan selects as a designated investment alternative an asset allocation fund, which is registered under the Investment Company Act of 1940, that contains a private equity sleeve in addition to publicly traded stocks and bonds. In making this selection, the named fiduciary prudently enlists the assistance of an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA. The investment advice fiduciary, who has no affiliation with the asset allocation fund, recommends the designated investment after creating a composite benchmark against which to measure risk-adjusted expected returns of the sleeves of the designated investment alternative. For the publicly traded stock and bond sleeves, the composite benchmark blends the performance of broad-based securities market indices reflective of and in proportion to the stock and bond holdings of the designated investment alternative. For the private equity sleeve, the investment advice fiduciary uses a combination of methodologies commonly used by investment professionals, including the internal rate of return method and a public market equivalent method, and presents these measures with explanations of how to interpret them to monitor the designated investment alternative's performance over time. The investment advice fiduciary also provides the named fiduciary with a written explanation of the composite benchmark. The named fiduciary reads, critically reviews, and understands the written explanation, and does not know, or have reason to know, other information which would cause the named fiduciary to question the written explanation.

(ii) *Analysis.* The named fiduciary must ensure that its decision is based on a meaningful benchmark. In determining whether a particular benchmark is a meaningful benchmark, a named fiduciary may rely on a benchmark created by a prudently selected investment advice fiduciary that is independent of the manager of the designated investment alternative. A named fiduciary need not be more expert in benchmark construction and analytics than the investment advice expert hired by the named fiduciary to assist in the selection process.

(iii) *Conclusion.* The named fiduciary in this example satisfies this paragraph (k) and ERISA section 404(a)(1)(B) by considering and determining that the designated investment alternative has a meaningful benchmark and comparing the risk-adjusted expected returns of the designated investment alternative to the meaningful benchmark. The composite benchmark reflects the strategies and proportions of the underlying assets of the designated investment alternative. The named fiduciary read, critically reviewed, and understood the investment advice fiduciary's explanation of the composite benchmark.

(3) *Example. Custom composite benchmark; Public securities*—(i) *Facts.* The named fiduciary for a participant-directed individual account plan selects a target date fund as a designated investment alternative. The target date fund holds only publicly traded stocks and bonds. As part of the selection process, the fiduciary appropriately considers whether a particular custom composite benchmark is a meaningful benchmark. The custom composite benchmark is a blend of broad-based securities market indices. The blend represents the asset allocation used to implement the target date fund's strategy. The named fiduciary reads, critically reviews and understands the benchmark description and determines that the custom composite benchmark is a meaningful benchmark. The named fiduciary compares the historical performance of the target date fund to the historical returns of the custom composite benchmark as a means of evaluating the risk-adjusted expected returns of the target date fund.

(ii) *Analysis.* In determining whether a particular benchmark is a meaningful benchmark with respect to a designated investment alternative, plan fiduciaries may rely on benchmarks that blend multiple broad-based securities market indices to represent the asset allocation used to implement the target date fund's strategy. Plan fiduciaries should review and understand the benchmark description or consult with an investment professional, as appropriate. The custom composite benchmark described in this example is meaningful because it reflects a similar strategy as the designated investment alternative. The custom composite benchmark can reveal whether the fund has outperformed or underperformed the benchmark in each asset class, providing valuable information to the plan fiduciary about the fund's investment selection decisions.

(iii) *Conclusion.* The plan fiduciary in this example satisfies this paragraph (k) and ERISA section 404(a)(1)(B) by considering and determining within its discretion that the designated investment alternative has a meaningful benchmark and comparing the risk-adjusted expected returns of the designated investment alternative to the meaningful benchmark.

(l) *Complexity.* The plan fiduciary must appropriately consider the complexity of the designated investment alternative and determine that it has the skills, knowledge, experience, and capacity to comprehend it sufficiently to discharge its obligations under ERISA and the governing plan documents or whether it must seek assistance from a qualified investment advice fiduciary, investment manager, or other individual.

(1) *Example. Complexity; Fees*—(i) *Facts.* A participant-directed individual account plan offers a designated investment alternative that is a pooled investment vehicle with an investment strategy involving target positions in particular types of assets, which includes holdings of private assets. The private assets in the designated investment alternative are varied and use sophisticated and variable fee-based incentive structures to drive performance, including management fees and performance fees which include carried interest rights.

(ii) *Analysis.* As described in more detail in paragraph (h), the fiduciary must determine that the fees and expenses of the designated investment alternative are appropriate, taking into account the designated investment alternative's risk-adjusted expected returns and any other value the designated investment alternative brings to furthering the purposes of the plan. In order to make this determination, the plan fiduciary must comprehend the fees that will be charged to the plan and determine, within its discretion, that such fees are appropriate given the value proposition offered by the designated investment alternative.

(iii) *Conclusion.* A plan fiduciary is deemed to have met the comprehension requirements of paragraph (l) of this section, and section 404(a)(1)(B) of ERISA, with respect to the complexity

of a designated investment alternative's fee structure in either of the two following scenarios.

(A) In the first scenario, the plan fiduciary conducts relevant due diligence to understand each fee that the plan may pay, and, in so doing, critically evaluates and determines, including, if appropriate, with the advice of a third-party investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, the average total expected rate of the designated investment alternative's fees, when fees will be paid, and how they will be determined. After this evaluation, the plan fiduciary determines (1) that the fee structure will deliver increased value by incentivizing performance which will, in turn, increase expected risk-adjusted return on investment and (2) that this increase outweighs the variability or potential unpredictability of the amount and timing of the fees.

(B) In the second scenario, three conditions are met. First, the fiduciary obtains a written representation from the person responsible for managing the designated investment alternative, or otherwise performs adequate due diligence to confirm, that none of the underlying fees will be passed through to the plan, and that, instead, the plan will pay an appropriate, flat, AUM-based fee, to the person responsible for managing the designated investment alternative, who will then internalize the underlying fees. Second, the fiduciary reads, critically reviews, and understands any written representation and consults a qualified professional where appropriate. Third, the fiduciary does not know, or have reason to know, other information which would cause the fiduciary to question any written representation.

(2) *Example. Complexity; Participant needs*—(i) *Facts.* The plan document for a participant-directed individual account plan specifies that the plan sponsor's chief financial officer is the named fiduciary of the plan and responsible for the establishment of the plan investment menu and selection and monitoring of designated investment alternatives. The named fiduciary does not enlist the services of an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA, an investment manager within the meaning of section 3(38) of ERISA, or any other type of professional consultant. The named fiduciary adds a managed account service to create a customized portfolio tailored to each participant's unique financial circumstances as the plan's qualified default investment alternative. But, because the named fiduciary does not understand the design of the managed account service, the named fiduciary provides only the age of each participant to the managed account service, instead of providing, or allowing the participants to provide, information about the participants' unique financial circumstances. Based on each participant's age, the managed account service creates a portfolio for each participant that is materially similar in terms of strategies, historical performance, and liquidity to the portfolio that each participant would have been exposed to in the plan's target date fund—another designated investment alternative in the plan. The target date fund has substantially lower fees than the managed account service.

(ii) *Analysis.* A plan fiduciary must, including with the help of professional investment advisers like third-party investment advice fiduciaries within the meaning of section 3(21)(A)(ii) of ERISA, when appropriate, determine that it has the skills, knowledge, experience, and capacity to understand each designated investment alternative sufficiently to discharge its obligations under ERISA and the governing plan documents.

(iii) *Conclusion.* The facts in this example do not establish that the named fiduciary satisfied section 404(a)(1)(B) of ERISA and paragraph (l) of this section in selecting the management account service as a designated investment alternative. The selection and implementation process appears to be flawed because the named fiduciary failed to comprehend the features, values, and fees of the designated investment alternative. After an appropriate due diligence process, a plan fiduciary would ordinarily be expected to understand how a designated investment alternative functions and delivers value to plan participants and operationalize it accordingly.

(m) *Designated investment alternative.* (1) The term ''designated investment alternative'' means any investment alternative designated by the plan into which participants and beneficiaries may direct the investment of assets held in, or contributed to, their individual accounts, including a qualified default investment alternative within the meaning of 29 CFR 2550.404c–5.

(2) The term ''designated investment alternative'' shall not include ''brokerage windows,'' ''self-directed brokerage accounts,'' or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan and shall not include investments acquired or available to be acquired through any such arrangements.

(3) The term ''designated investment alternative'' shall not include plan design features chosen by plan settlors, including features that establish the payment method of benefits under the plan. For example, a design feature in a participant-directed individual account plan that permits participants to electively join an open-end, actuarily fair, longevity risk-sharing solution with mortality pooling but no insurance contract or additional investment product, in which participants are allowed to select from the plan's existing designated investment alternatives and to choose from a variety of payout methods, with each participant's results being unaffected by the investment and payout choices of others, is not a ''designated investment alternative.''

Signed at Washington, DC, on this 24th day of March 2026.

Daniel Aronowitz,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2026–06178 Filed 3–30–26; 4:15 pm]

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FEDERAL REGISTER

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Part III

The President

Executive Order 14398—Addressing DEI Discrimination by Federal Contractors

Federal Register
Vol. 91, No. 61
Tuesday, March 31, 2026

Presidential Documents

Title 3—

The President

Executive Order 14398 of March 26, 2026

Addressing DEI Discrimination by Federal Contractors

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act (40 U.S.C. 101 *et seq.*) (FPASA), it is hereby ordered:

Section 1. *Policy and Purpose.* My Administration has made significant progress in ending racial discrimination in American society, including so-called ''diversity, equity, and inclusion'' (DEI) activities in which employees, applicants, or contracting parties are treated differently, separated, or singled out based on their race or ethnicity, rather than treated equally and objectively based on their merit and without regard to their immutable characteristics. Despite this progress, some entities continue to engage in DEI activities and often attempt to conceal their efforts to do so.

DEI activities are not only unethical and often illegal, but also cause inefficiencies, waste, and abuse within entities that engage in such practices. Specifically, DEI activities impose artificial costs in hiring, promotion, and operations by precluding implementation of merit-based principles; creating excessive workforce turnover by elevating immutable characteristics over job performance; and jeopardizing the sort of employee collaboration and problem-solving that is essential to fostering efficient and high-quality work. DEI activities also create unnecessary costs by reducing the pool of available labor by artificially limiting companies to hiring or promoting certain individuals, suppliers, or intermediaries based on their race or ethnicity. These costs are inevitably passed on to the Federal Government when it contracts with companies who engage in racially discriminatory DEI activities, or who use subcontractors who do so.

It is therefore the policy of the United States to promote economy and efficiency in Federal contracting by preventing racial discrimination.

Sec. 2. *Definitions.* (a) For the purposes of this order, ''racially discriminatory DEI activities'' means disparate treatment based on race or ethnicity in the recruitment, employment (*e.g.,* hiring, promotions), contracting (*e.g.,* vendor agreements), program participation, or allocation or deployment of an entity's resources.

(b) ''Program participation'' means membership or participation in, or access or admission to: training, mentoring, or leadership development programs; educational opportunities; clubs; associations; or similar opportunities that are sponsored or established by the contractor or subcontractor.

Sec. 3. *Requirements for Federal Contractors.* Within 30 days of the date of this order, executive departments and agencies, including independent establishments subject to FPASA, 40 U.S.C. 102(4)(A) (agencies), shall, to the extent permitted by law, ensure that contracts and contract-like instruments, including contractors' subcontracts and subcontractors' lower-tier subcontracts, include the following clause:

''In connection with the performance of work under this contract, [the contractor/appropriate party (contractor)] agrees as follows:

1. The contractor will not engage in any racially discriminatory DEI activities, as defined in section 2 of the Executive Order of March 26, 2026 (Addressing DEI Discrimination by Federal Contractors);

2. The contractor will furnish all information and reports, including providing access to books, records, and accounts, as required by the contracting agency pursuant to the Executive Order of March 26, 2026 (Addressing DEI Discrimination by Federal Contractors), for purposes of ascertaining compliance with this clause;

3. In the event of the contractor's or a subcontractor's noncompliance with this clause, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor or subcontractor may be declared ineligible for further Government contracts;

4. The contractor will report any subcontractor's known or reasonably knowable conduct that may violate this clause to the contracting department or agency and take any appropriate remedial actions directed by the contracting department or agency;

5. The contractor will inform the contracting department or agency if a subcontractor sues the contractor and the suit puts at issue, in any way, the validity of this clause; and

6. The contractor recognizes that compliance with the requirements of this clause are material to the Government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code (False Claims Act).''.

Sec. 4. *Penalties.* (a) The Director of the Office of Management and Budget shall issue guidance to contracting agencies to ensure compliance with this order. Consistent with any such guidance provided, contracting agencies shall:

(i) cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract or contract-like instrument, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the clause described in section 3 of this order; and

(ii) take appropriate action to suspend and debar contractors or subcontractors for such failures to comply.

(b) The Director of the Office of Management and Budget, in coordination with the Attorney General, the Assistant to the President for Domestic Policy, and the Chairman of the Equal Employment Opportunity Commission, shall identify economic sectors that pose a particular risk of entities engaging in racially discriminatory DEI activities based on current or past conduct and issue additional guidance to contracting agencies regarding best practices to ensure compliance with this order within such sectors.

(c) Within 120 days of the date of this order, each agency head shall review the agency's implementation of section 3 of this order and report to the Assistant to the President for Domestic Policy regarding its compliance with that section. Thereafter, each agency head shall regularly review and take appropriate measures to ensure such compliance.

(d) The Attorney General, in consultation with relevant contracting agencies, shall:

(i) consider whether to bring actions under the False Claims Act against any contractors or subcontractors that violate the clause described in section 3 of this order; and

(ii) ensure prompt review of civil actions brought by private persons under 31 U.S.C. 3730(b)(1) concerning Federal contracts or subcontracts, including by rendering a decision on whether to proceed with an action under 31 U.S.C. 3730(b)(4), to the maximum extent practicable, within the 60-day period described in 31 U.S.C. 3730(b)(2).

Sec. 5. *Regulations and Implementation.* (a) The Federal Acquisition Regulatory Council, to the extent permitted by law, shall amend the Federal Acquisition Regulation to:

(i) provide for inclusion in Federal procurement, solicitations, and contracts subject to this order the clause described in section 3 of this order; and

(ii) remove any provisions that conflict or are inconsistent with the clause described in section 3 of this order.

(b) The Federal Acquisition Regulatory Council shall, within 60 days of the date of this order, issue deviation and interim guidance under subpart 1.4 of the Federal Acquisition Regulation, as appropriate and consistent with applicable law, regarding agency implementation of the clause described in section 3 of this order before completion of the amendments under subsection (a) of this section.

Sec. 6. *Severability.* If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

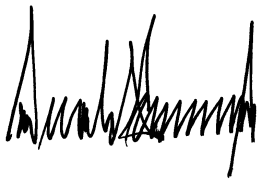
(i) the authority granted by law to an executive department, agency, or the head thereof; or

(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 Justice.



THE WHITE HOUSE,
March 26, 2026.

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