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Contents

Federal Register

Vol. 83, No. 195

Tuesday, October 9, 2018

Agricultural Marketing Service
RULES
United States Standards:
Grades of Pecans, 50475–50477
PROPOSED RULES
Amendments to Quality Systems Verification Programs and Conforming Changes; Withdrawal, 50527
Marketing Orders:
Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2018–2019 Marketing Year, 50527–50531
Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; Revision of Reporting Requirements, 50531–50533

Agriculture Department
See Agricultural Marketing Service
See Food Safety and Inspection Service
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50631–50632

Air Force Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50650

Census Bureau
NOTICES
2020 Census Data Products, 50636

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Uniform Project Description Program Narrative Format for Discretionary Grant Application Forms, 50661

Coast Guard
RULES
Safety Zones:
North Hero-Grand Isle Bridge, Lake Champlain, VT, 50503–50506
PROPOSED RULES
Safety Zones:
Barters Island Bridge, Back River, Barters Island, ME, 50545–50547

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
PROPOSED RULES
Amendment to Requirements for Consumer Registration of Durable Infant or Toddler Products, 50542–50545
NOTICES
Provisional Acceptance of a Settlement Agreement and Order:
Costco Wholesale Corp., 50647–50650

Defense Department
See Air Force Department

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
New Jersey; Elements for the 2008 8-Hour Ozone National Ambient Air Quality Standards, 50506–50509
PROPOSED RULES
Air Quality Designation:
Illinois; Indiana; Revised Designation of Illinois and Indiana 2012 $PM_{2.5}$ Unclassifiable Areas, 50556–50560
Air Quality State Implementation Plans; Approvals and Promulgations:
California; El Dorado County Air Quality Management District; Reasonably Available Control Technology Demonstration, 50548–50551
Illinois; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone Standard, 50551–50556

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus SAS Airplanes, 50482–50484
Dassault Aviation Airplanes, 50477–50482
PROPOSED RULES
Airworthiness Directives:
Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes, 50539–50542
Dassault Aviation Model FALCON 2000 Airplanes, 50537–50539
Primary Category Design Standards:
Vertical Aviation Technologies Model S–52L Rotorcraft, 50536–50537
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50740–50741
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Flight Simulation Device Initial and Continuing Qualification and Use, 50740

Federal Bureau of Investigation
NOTICES
Meetings:
Compact Council for the National Crime Prevention and Privacy Compact, 50689

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 50660–50661

Federal Emergency Management Agency
NOTICES
Emergency Declarations:
Florida; Amendment No. 3, 50669
Florida; Amendment No. 4, 50672
Flood Hazard Determinations; Changes, 50670–50672
Major Disaster Declarations:
Florida; Amendment No. 16, 50670
South Carolina; Amendment No. 2, 50670

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50650–50655
Applications:
Erie Boulevard Hydropower, LP, 50658–50659
Erie Boulevard Hydropower, LP, 50655
Georgia Power Co., 50659
Environmental Impact Statements; Availability, etc.:
Port Arthur LNG, LLC, PALNG Common Facilities Co., LLC, Port Arthur Pipeline, LLC, Port Arthur Liquefaction Project, Texas Connector Project, and Louisiana Connector Project, 50656–50658
Environmental Reviews:
Texas Eastern Transmission, LP; Cameron System Abandonment Project, 50655–50656
Preliminary Determinations of Qualifying Conduit Hydropower Facilities:
Wallowa Resources Community Solutions Inc., 50659–50660

Federal Trade Commission
RULES
Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets, 50484–50487

Fish and Wildlife Service
RULES
Subsistence Management:
Public Lands in Alaska; 2018-19 and 2019-20 Subsistence Taking of Wildlife, 50758–50801
PROPOSED RULES
Endangered and Threatened Species:
Eastern Black Rail; 12-Month Petition Finding, 50610–50630
Slenderclaw Crayfish; Critical Habitat Designation, 50582–50610
Threatened Species Status for Black-Capped Petrel, 50560–50574
Threatened Species Status for Coastal Distinct Population Segment of the Pacific Marten, 50574–50582

Food and Drug Administration
RULES
Food Additive Regulations:
Synthetic Flavoring Agents and Adjuvants, 50490–50503
Food Additives Permitted for Direct Addition to Food for Human Consumption:
Styrene, 50487–50490
NOTICES
Meetings:
Anesthetic and Analgesic Drug Products Advisory Committee, 50661–50663
Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee, 50663–50664

Food Safety and Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Laboratories, 50634–50635
Records to be Kept by Official Establishments and Retail Stores that Grind Raw Beef Products, 50633–50634
Requests for Nominations:
National Advisory Committee on Meat and Poultry Inspection, 50632–50633

Foreign-Trade Zones Board
NOTICES
Production Activities:
Black & Decker (U.S.), Inc., Foreign-Trade Zone 12, McAllen, TX, 50636

Forest Service
RULES
Subsistence Management:
Public Lands in Alaska; 2018–19 and 2019–20 Subsistence Taking of Wildlife, 50758–50801

Government Publishing Office
NOTICES
Meetings:
Depository Library Council, 50661

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Meetings:
National Clinical Care Commission, 50665–50666
Performance Review Board Members, 50665

Health Resources and Services Administration
NOTICES
Charter Renewals:
Council on Graduate Medical Education, 50664–50665

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Technical Assistance Request and Evaluation, 50675–50676
Privacy Act; Matching Program, 50672–50673
Senior Executive Service Performance Review Board Membership, 50674–50675

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Indian Housing Block Grant Competitive Program, 50677–50679
Public Housing 5-Year and Annual PHA Plan and MTW Supplement to the PHA Plan, 50676–50677

Interior Department
See Fish and Wildlife Service
NOTICES
Charter Renewals:
Exxon Valdez Oil Spill Public Advisory Committee, 50686–50687
Environmental Assessments; Availability, etc.:
Deepwater Horizon Oil Spill Draft Restoration Plan 1; Open Ocean Trustee Implementation Group, 50681–50682
Deepwater Horizon Oil Spill Florida Trustee Implementation Group; Habitat Projects on Federally Managed Lands, Nutrient Reduction, Water Quality, and Provide and Enhance Recreational Opportunities, 50679–50681
Privacy Act; Systems of Records, 50682–50686

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50750–50756

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Fresh Garlic from the People's Republic of China, 50636–50637
Narrow Woven Ribbons with Woven Selvedge from Taiwan, 50637–50639
Stainless Steel Flanges from India, 50639–50641

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
American Manufacturing Competitiveness Act: Effects of Temporary Duty Suspensions and Reductions on the U.S. Economy, 50687–50688
Meetings; Sunshine Act, 50687–50689

Justice Department
See Federal Bureau of Investigation
NOTICES
Proposed Consent Decrees, 50689

Management and Budget Office
NOTICES
Request for Information, 50689–50691

Maritime Administration
NOTICES
Requests for Administrative Waivers of the Coastwise Trade Laws:
Vessel ENDLESS SUMMER, 50742–50743
Vessel ICONA, 50743–50744
Vessel IREMIA, 50744–50745
Vessel RAY, 50741–50742

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance to Conduct Voluntary Customer/Partner Surveys, 50668–50669
Government-Owned Inventions; Availability for Licensing, 50666–50668

National Oceanic and Atmospheric Administration
RULES
Fisheries Off West Coast States:
Magnuson-Stevens Act Provisions; Pacific Coast Groundfish Fishery; 2017–2018 Biennial Specifications and Management Measures; Inseason Adjustments, 50510–50526
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Access-Point Angler Intercept Survey, 50643–50644
Alaska Community Quota Entity Program, 50644–50645
Alaska Region Amendment 80 Permits and Reports, 50645–50646
Meetings:
Gulf of Mexico Fishery Management Council, 50641–50642
Permit Applications:
Endangered Species; File No. 22218, 50646
Requests for Nominations:
Atlantic Highly Migratory Species Advisory Panel, 50642–50643
Small Business Innovation Research Program:
Funding Opportunity and Procurement Award Changes for Fiscal Year 2019, 50646–50647

Nuclear Regulatory Commission
PROPOSED RULES
Agency Procedures for Responding to Adverse Court Decisions and Addressing Funding Shortfalls, 50533–50536
NOTICES
Exemptions and Combined Licenses; Amendments:
Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and 4; Updates to Tier 1 Table 2.5.2–3, 50700–50702
Facility Operating and Combined Licenses:
Applications and Amendments Involving No Significant Hazards Considerations; Biweekly Notice, 50691–50700

Pension Benefit Guaranty Corporation
NOTICES
Pendency for Request for Approval of Special Withdrawal Liability Rules:
United Food and Commercial Workers International Union—Industry Pension Fund, 50702–50704

Railroad Retirement Board
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50704–50705

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 50708, 50713, 50720–50723, 50736–50737
Applications:
Vident Advisory, LLC et al., 50737–50738
Meetings; Sunshine Act, 50738–50739
Self-Regulatory Organizations; Proposed Rule Changes:
BOX Exchange, LLC, 50705–50708, 50718–50720
Cboe Exchange, Inc., 50721–50722
Chicago Stock Exchange, Inc., 50720
ICE Clear Europe, Ltd., 50713–50715
Municipal Securities Rulemaking Board, 50708–50713
Nasdaq BX, Inc., 50723–50726

Nasdaq ISE, LLC, 50715–50718
New York Stock Exchange, LLC, 50727–50736

State Department
NOTICES
Delegation of Authority, 50739
Meetings:
President's Emergency Plan for AIDS Relief Scientific Advisory Board, 50739–50740

Transportation Department
See Federal Aviation Administration
See Maritime Administration
NOTICES
Preparing for the Future of Transportation:
Automated Vehicles 3.0, 50746–50747
Rights and Protections Available under the Federal Antidiscrimination and Whistleblower Protection Laws, 50745–50746
Scope of the Study on the Impact of Automated Vehicle Technologies on Workforce, 50747–50749

Treasury Department
See Internal Revenue Service

Veterans Affairs Department
RULES
Loan Guaranty:
Ability-to-Repay Standards and Qualified Mortgage Definition under the Truth-in-Lending Act, 50506

Separate Parts In This Issue

Part II
Agriculture Department, Forest Service, 50758–50801
Interior Department, Fish and Wildlife Service, 50758–50801

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
51 50475
Proposed Rules:
56 50527
62 50527
70 50527
985 50527
986 50531

10 CFR
Proposed Rules:
2 50533

14 CFR
39 (3 documents) 50477, 50479, 50482
Proposed Rules:
21 50536
39 (2 documents) 50537, 50539

16 CFR
410 50484
Proposed Rules:
1130 50542

21 CFR
172 (2 documents) 50487, 50490
177 50490

33 CFR
165 50503
Proposed Rules:
165 50545

36 CFR
242 50758

38 CFR
36 50506

40 CFR
52 50506
Proposed Rules:
52 (2 documents) 50548, 50551
81 50556

50 CFR
100 50758
660 50510
Proposed Rules:
17 (4 documents) 50560, 50574, 50582, 50610

Rules and Regulations

Federal Register

Vol. 83, No. 195

Tuesday, October 9, 2018

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Document Number AMS–FV–14–0101, SC–17–331]

United States Standards for Grades of Pecans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the U.S. Standards for Grades of Shelled Pecans and the U.S. Standards for Grades of Pecans in the Shell. The revisions include replacing the term ''midget'' with ''extra small'' in the Shelled Pecan standards and removing references to plastic models of pecan kernels and information on where the color standards may be examined from both standards.

DATES: This direct final rule is effective December 10, 2018; without further action or notice, unless significant adverse comment is received by November 8, 2018. If significant adverse comment is received, AMS will publish a timely withdrawal of this rule in the **Federal Register**.

ADDRESSES: Interested persons are invited to submit written comments to the USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; fax: (540) 361–1199; or at *www.regulations.gov.* Comments should reference the date and page number of this issue of the **Federal Register**, and will be made available for public inspection in the above office during regular business hours. Comments can also be viewed as submitted, including any personal information you provide, on the *www.regulations.gov* website.

FOR FURTHER INFORMATION CONTACT: Lindsay H. Mitchell at the address above, by phone (540) 361–1120; fax (540) 361–1199; or, email *lindsay.mitchell@ams.usda.gov.* Copies of the revised U.S. Standards for Grades of Shelled Pecans and the U.S. Standards for Grades of Pecans in the Shell are available at *http://www.regulations.gov* or *http://www.ams.usda.gov/grades-standards/nuts.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.''

The Agricultural Marketing Service (AMS) is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The U.S. Standards for Grades of Fruits and Vegetables that no longer appear in the Code of Federal Regulations are maintained by AMS at: *http://www.ams.usda.gov/grades-standards.*

Executive Orders 12866, 13771, and 13563

This rule is not expected to be an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866. See the Office of Management and Budget's memorandum, ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017). Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (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.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments nor significant Tribal implications.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

AMS continuously reviews fruit and vegetable grade standards to assess their effectiveness in the industry and to modernize language. In addition, on May 13, 2013, AMS received a petition from the Little People of America stating that the group is ''trying to raise awareness around and eliminate the use of the word midget.'' The petition further stated that, ''Though the use of the word midget by the USDA when classifying certain food products is benign, Little People of America, and the dwarfism community, hopes that the USDA would consider phasing out the term midget.'' Five grade standards contain the term ''midget'': U.S. Standards for Grades of Canned Lima Beans, U.S. Standards for Grades of Canned Mushrooms, U.S. Standards for Grades of Pickles, U.S. Standards for Grades of Green Olives, and U.S. Standards for Grades of Shelled Pecans. Canned lima beans, canned mushrooms, pickles, and green olives will be covered in another notice due to additional changes being made to those specific standards.

Prior to developing the proposed revisions to the pecan grade standards, AMS solicited comments and suggestions about the standards from the National Pecan Shellers Association (NPSA). The NPSA recommended replacing the term ''midget'' with ''extra small.''

As part of modernizing the standards, the obsolete language regarding the purchase of plastic pecan models (PEC–MC–1) is being removed. These color standards are still in effect, but are no

longer available for purchase from the single previous manufacturer. Related information on where the color standards can be examined also will be removed as it is no longer current.

A notice announcing these changes was published in the January 12, 2016, **Federal Register** (81 FR 1386). AMS received one comment in favor of the changes. After the comment period ended, AMS recognized that the standards for both in-shell and shelled pecans are published in the Code of Federal Regulations (7 CFR 51.1400 through 51.1416 and 51.1430 through 51.1451), even though there was no Federal marketing order for pecans at that time. The Pecan Marketing Order No. 986 became effective August 5, 2016. Therefore, AMS is providing notice and an opportunity to comment on the revised regulatory language.

AMS is making the following revisions in the U.S. Standards for Grades of Shelled Pecans:

- § 51.1436 Color classifications (b): Revised to remove reference to plastic models and address for viewing them.
- § 51.1437 Table I: Revised to change Midget to Extra small.
- § 51.1438 Table II and Table III: Revised to change Midget pieces to Extra small pieces.
- § 51.1443 Particles and dust: Revised to change midget to extra small.

In addition, AMS is making the following revision in the U.S. Standards for Grades of Pecans in the Shell:

- § 51.1403 Kernel color classifications (b): Revised to remove reference to plastic models and address.

Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000. Small agricultural service firms (handlers) are defined as those with annual receipts of less than $7,500,000.

Considering the economic impact on small entities involves estimating whether a majority of growers and handlers in the U.S. pecan market qualify as small or large businesses. The following paragraphs explain a set of computations that achieves this goal.

Almost all U.S. pecans are grown in the 15-state production area of the Federal marketing order for pecans (Marketing Order 986). There are 2,500 growers of pecans in the production area and 250 handlers subject to regulation under the marketing order. The grower number estimate was supplied by the American Pecan Council, which administers the marketing order under the oversight of USDA. The handler number estimate comes from the Secretary's Decision on promulgating the marketing order (81 FR 10140).

According to data published by the National Agricultural Statistics Service (NASS), the 3-year average value of utilized pecan production for 2014 through 2016 was $591.204 million. Dividing this average value of utilized pecan production by the total number of pecan growers (2,500) provides an average return per grower estimate of $236,482, well below the SBA small business threshold of $750,000 in annual receipts. Using this average value of utilized production and grower number information, and assuming a normal bell-curve distribution of receipts among growers, the majority of growers qualify as small businesses.

Evidence presented in 2015 during formal rulemaking for the pecan Federal marketing order indicated an average handler margin of $0.58 per pound. Adding the handler margin to the 2014–2016 average grower price of $2.22 per pound of inshell pecans results in an estimated handler price of $2.80 per pound. Multiplying the estimated handler price by the 3-year average utilized production figure of 266.312 million pounds yields a total value of production at the handler level of $745.7 million. Dividing this handler-level value of utilized pecan production by the number of handlers (250) results in an average return per handler of $2.98 million, well below the SBA small business threshold of $7.5 million in annual receipts. Using this estimated price, utilization volume and value, and number of handlers, and assuming a normal bell-curve distribution of receipts among handlers, the majority of handlers qualify as small businesses.

The pecan standard changes are limited to modernizing grading terminology and removing language related to outdated vendor references for color standards. The pecan size standard currently known as ''midget'' will be changed to ''extra small.'' Additionally, obsolete vendor information for the pecan kernel color standards will be revised. Information regarding the purchasing of the color standards from the manufacturer is obsolete as models are no longer available. The inspection procedures and color standards will remain in effect. AMS also is removing outdated language in another section that identified where the kernel models could be viewed. The remaining language in that section identifies the four ''color intensities'' of the kernel color standards.

With the adoption of this rule, current inspection methods will continue unchanged. The ''extra small'' size category will be identical to the previous ''midget'' size category; only the name will change. Renaming the size category and continuing to use the current method of applying kernel color standards will not require any significant changes in grower or handler business operations. Any additional costs to growers and handlers will be negligible. No small businesses will be unduly or disproportionately burdened.

Renaming the size standard and removing outdated language helps keep grading standards current. Food grading standards provide important quality information to buyers and sellers, contributing to the efficient marketing of agricultural commodities.

A 30-day comment period is provided for public comment on the changes to the U.S. Standards for Grades of Shelled Pecans and the U.S. Standards for Grades of Pecans in the Shell proposed herein. If no significant comment is received, the changes in this rule, would be implemented 30 days thereafter.

List of Subjects in 7 CFR Part 51

Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621—1627.

■ 2. In § 51.1403, paragraph (b) is revised to read as follows:

§ 51.1403 Kernel color classifications.

* * * * *

(b) U.S. Department of Agriculture kernel color standards, PEC–MC–1, illustrate the color intensities implied by the terms ''golden,'' ''light brown,'' ''medium brown,'' and ''dark brown'' referred to in paragraph (a) of this section.

■ 3. In § 51.1436, paragraph (b) is revised to read as follows:

§ 51.1436 Color classifications.

* * * * *

(b) U.S. Department of Agriculture kernel color standards, PEC–MC–1, illustrate the color intensities implied by the terms ''golden,'' ''light brown,'' ''medium brown,'' and ''dark brown'' referred to in paragraph (a) of this section.

■ 4. In § 51.1437, Table I is amended by removing the entry ''Midget'' and adding in its place the entry ''Extra small'' to read as follows:

§ 51.1437 Size classifications for halves.

* * * * *

TABLE I

Size classifications for halves	Number of halves per pound
* * * * *	
Extra small	751 or more.

* * * * *

■ 5. In § 51.1438, Table II and Table III are amended by removing the entry ''Midget pieces'' and adding in its place the entry ''Extra small pieces'' to read as follows:

§ 51.1438 Size classifications for pieces.

* * * * *

TABLE II

Size classification	Maximum diameter (will pass through round opening of following diameter)	Minimum diameter (will not pass through round opening of the following diameter) (inch)
* * * * * *		*
Extra small pieces	3/16 inch	1/16
* * * * * *		*

* * * * *

TABLE III

[Percent]

Size classification	Total tolerance for offsize pieces	Tolerance (included in total tolerance) for pieces smaller than	
		2/16	1/16 inch
* * * * * *			*
Extra small pieces	15		2
* * * * * *			*

■ 6. Revise § 51.1443 to read as follows:

§ 51.1443 Particles and dust.

Particles and dust means, for all size designations except ''extra small pieces'' and ''granules,'' fragments of kernels which will pass through a round opening two-sixteenths inch in diameter.

Dated: October 3, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–21845 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0451; Product Identifier 2017–NM–172–AD; Amendment 39–19406; AD 2018–19–06]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 900EX airplanes. This AD was prompted by reports of rejected take-offs due to untimely inboard flap retraction. This AD requires modification of the slat/flap control wiring and replacement of the slat/flap control box with an improved box. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 13, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 13, 2018.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200

South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0451.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0451; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenues SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Dassault Aviation Model FALCON 900EX airplanes. The NPRM published in the **Federal Register** on May 30, 2018 (83 FR 24686). The NPRM was prompted by reports of rejected take-offs due to untimely inboard flap retraction. The NPRM proposed to require modification of the slat/flap control wiring and replacement of the slat/flap control box with an improved box.

We are issuing this AD to address an uncommanded retraction of the inboard slats and flaps during take-off, and consequent reduced controllability of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0219, dated November 14, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 900EX airplanes. The MCAI states:

> An occurrence was reported where, during the take-off run, a red CAS [crew alerting system] message ''NO TAKE OFF'' was displayed, and an aural warning was given. The flight crew elected to abort the take-off. The configuration of the affected aeroplane was SF1 and indicated airspeed (IAS) was at 100 kts. Investigations showed that the outboard slat extended microswitch, located at track #7, was not correctly adjusted. A design review revealed that this deficiency may affect only Falcon 900LX (commercial designation) without modification M5636, during take-off in SF1 configuration.
>
> This condition, if not corrected, could lead to an uncommanded retraction of inboard slats and flaps during take-off, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, DA [Dassault Aviation] designed modification M6043 and published Service Bulletin (SB) F900EX–522 to provide instructions for embodiment of this modification in-service.
>
> For the reasons described above, this [EASA] AD requires a wiring modification and replacement of the slat/flap control box with an improved box.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0451.

Comments

We gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Dassault Aviation Service Bulletin F900EX–522, also referred to as 522, dated March 8, 2017. This service information describes procedures for modifying the slat/flap control wiring and replacing the slat/flap control box. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 13 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification and replacement	22 work-hours × $85 per hour = $1,870	$8,495	$10,365	$134,745

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all known costs in our cost estimate.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the

Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–19–06 Dassault Aviation: Amendment 39–19406; Docket No. FAA–2018–0451; Product Identifier 2017–NM–172–AD.

(a) Effective Date

This AD is effective November 13, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 900EX airplanes, certificated in any category, serial number 240 and serial numbers 242 through 273 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports of rejected take-offs due to untimely inboard flap retraction. We are issuing this AD to address an uncommanded retraction of the inboard slats and flaps during take-off, and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Modification and Replacement

Within 500 flight hours after the effective date of this AD, modify the slat/flap control wiring and replace the slat/flap control box having part number (P/N) 6–7061 with an improved control box, in accordance with the Accomplishment Instructions of Dassault Aviation Service Bulletin F900EX–522, also referred to as 522, dated March 8, 2017.

(h) Parts Installation Prohibition

After modification of an airplane as required by paragraph (g) of this AD, no person may install any slat/flap control box having P/N 6–7061 on that airplane.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA*);* or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0219, dated November 14, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0451.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(k) Material Incorporated by Reference

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

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

(i) Dassault Aviation Service Bulletin F900EX–522, also referred to as 522, dated March 8, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on August 30, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21466 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0357; Product Identifier 2018–NM–035–AD; Amendment 39–19428; AD 2018–19–27]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 2000EX airplanes. This AD was

prompted by the manufacturer revising the airplane maintenance manual (AMM) maintenance requirements and airworthiness limitations. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new maintenance requirements and airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 13, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 13, 2018.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0357.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0357; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Dassault Aviation Model FALCON 2000EX airplanes. The NPRM published in the **Federal Register** on April 30, 2018 (83 FR 18760). The NPRM was prompted by the manufacturer revising the AMM maintenance requirements and airworthiness limitations. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new maintenance requirements and airworthiness limitations. We are issuing this AD to address reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018–0021, dated January 29, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 2000EX airplanes. The MCAI states:

> The airworthiness limitations for Dassault Falcon 2000EX aeroplanes, which are approved by EASA, are currently defined and published in Aircraft Maintenance Manual (AMM) Airworthiness Limitations Section (ALS) Chapter 5–40. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition [*i.e.,* reduced structural integrity of the airplane].
>
> EASA previously issued [EASA] AD 2012–0157 [which corresponds to FAA AD 2014–16–12, Amendment 39–17936 (79 FR 52187, September 3, 2014) (''AD 2014–16–12'')], requiring the actions described in Dassault Falcon 2000EX AMM Chapter 5–40 (DGT 113877) at Revision 07.
>
> Since that [EASA] AD was issued, Dassault published Revision 11 of Dassault Falcon 2000EX AMM Chapter 5–40 (DGT 113877), containing new and/or more restrictive maintenance tasks and introducing (among other changes) an operational test for Cursor Control Device.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0157, which is superseded, and requires accomplishment of the actions specified in the Dassault Falcon 2000EX AMM Chapter 5–40 (DGT 113877) at Revision 11 * * *.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0357.

Comments

We gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, of the Dassault Falcon 2000EX Maintenance Manual. This service information describes instructions applicable to airworthiness and safe life limitations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 181 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–19–27 Dassault Aviation: Amendment 39–19428; Docket No. FAA–2018–0357; Product Identifier 2018–NM–035–AD.

(a) Effective Date

This AD is effective November 13, 2018.

(b) Affected ADs

This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (''AD 2010–26–05''); and AD 2014–16–12, Amendment 39–17936 (79 FR 52187, September 3, 2014) (''AD 2014–16–12'').

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before January 15, 2018.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time limits/maintenance checks.

(e) Reason

This AD was prompted by manufacturer revisions to the airplane maintenance manual (AMM) that introduce new or more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, of the Dassault Falcon 2000EX Maintenance Manual. The initial compliance times for doing the tasks are at the time specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, of the Dassault Falcon 2000EX Maintenance Manual, or within 90 days after the effective date of this AD, whichever occurs later; except for task number 52–20–00–610–801–01, the initial compliance time is within 24 months after October 8, 2014 (the effective date of AD 2014–16–12). The term ''LDG'' in the ''First Inspection'' column of any table in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, means total airplane landings. The term ''FH'' in the ''First Inspection'' column of any table in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, means total flight hours. The term ''FC'' in the ''First Inspection'' column of any table in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, means total flight cycles.

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Actions for Other ADs

(1) Accomplishing the actions required by paragraph (g) of this AD terminates all of the requirements of AD 2014–16–12.

(2) Accomplishing the actions specified in paragraph (g) of this AD terminates the requirements of paragraph (g) of AD 2010–26–05 for Dassault Aviation Model FALCON 2000EX airplanes.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0021, dated January 29, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0357.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(l) Material Incorporated by Reference

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

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

(i) Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated

November 2017, of the Dassault Falcon 2000EX Maintenance Manual.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on September 14, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21462 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0301; Product Identifier 2017–NM–112–AD; Amendment 39–19407; AD 2018–19–07]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This AD was prompted by a report of yellow hydraulic system failure, including both braking accumulators, due to failure of the parking brake operated valve (PBOV). This AD requires replacement of a certain PBOV with a different PBOV. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 13, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 13, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 series airplanes; Model A300 B4–600, A300 B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The NPRM published in the **Federal Register** on April 27, 2018 (83 FR 18483). The NPRM was prompted by a report of yellow hydraulic system failure, including both braking accumulators, due to failure of the PBOV. The NPRM proposed to require replacement of a certain PBOV with a different PBOV.

We are issuing this AD to address failure of the PBOV, which could result in no braking capability during ground operations, possibly leading to damage to the airplane and injury to people on the ground.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0153, dated August 17, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The MCAI states:

> An occurrence was reported where yellow hydraulic system, including both braking accumulators, was lost. This was confirmed by ECAM [electronic centralized aircraft monitor] warnings and single chimes during taxiing. Normal braking on green hydraulic circuit was used until aeroplane stopped at parking position. A few seconds later, the aeroplane slowly accelerated, until colliding with a wall and a bus. The crew reported that the parking brake was selected and full braking pedals were applied, but with no effect since normal braking was inhibited after Parking Brake was set to ON. Investigation results identified that this occurrence was due to failure of the parking brake operated valve (PBOV), Part Number (P/N) A25315–1.
>
> This condition [parking brake failure], if not corrected, could lead to further incidents, possibly resulting in damage to the aeroplane and injury to persons on the ground.
>
> Prompted by this event, Airbus issued Service Bulletin (SB) A300–32–0467, SB A310–32–2151, SB A300–32–6117 and SB A300–32–9023, as applicable, to provide instructions for in-service installation of the PBOV P/N A25315020–2 introduced by Airbus Modification 13201 for A300/A310/A300–600 and Airbus Modification 19601 for A300–600ST.
>
> For the reason described above, this [EASA] AD requires replacement of the PBOV P/N A25315–1 by PBOV P/N A25315020–2.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301.

Comments

We gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

Request To Revise the Compliance Time in the Proposed AD

Airbus requested that the compliance time of the proposed AD be revised so operators would have all required actions completed by August 31, 2022, instead of 60 months after the effective date of the final rule. Airbus noted that August 31, 2022, is the calendar date that corresponds with the compliance time in EASA AD 2017–0153, which is 60 months after August 31, 2017 (the effective date of EASA AD 2017–0153).

We disagree with the commenter's request. In consideration of the average utilization rate by the affected U.S. operators, the practical aspects of an orderly modification of the U.S. fleet during regular maintenance periods, and the availability of required parts, we have determined that a 60-month compliance time is appropriate. However, most ADs, including this one, permit operators to accomplish the requirements of an AD at a time earlier then the specified compliance time.

Furthermore, using the compliance time proposed by Airbus would effectively reduce the compliance time for this AD, and we would have to provide an additional public comment period, which would further delay the issuance of this AD. We have not changed this AD in regard to this issue.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued Service Bulletin A300–32–0467, dated July 4, 2017; Service Bulletin A300–32–6117, dated July 4, 2017; and Service Bulletin A310–32–2151, dated July 4, 2017. This service information describes procedures for replacing the PBOV. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 147 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
PBOV replacement	6 work-hours × $85 per hour = $510	$4,764	$5,274	$775,278

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–19–07 Airbus SAS: Amendment 39–19407; Docket No. FAA–2018–0301; Product Identifier 2017–NM–112–AD.

(a) Effective Date

This AD is effective November 13, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report of yellow hydraulic system failure, including both braking accumulators, due to failure of the parking brake operated valve (PBOV). We are issuing this AD to address failure of the PBOV, which could result in no braking capability during ground operations, possibly leading to damage to the airplane and injury to people on the ground.

(f) Compliance

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

(g) PBOV Replacement

Within 60 months after the effective date of this AD, replace the PBOV having part number (P/N) A25315–1 with a PBOV having P/N A25315020–2, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–32–0467, dated July 4, 2017; Airbus Service Bulletin A300–32–6117, dated July 4, 2017; or Airbus Service Bulletin A310–32–2151, dated July 4, 2017; as applicable.

(h) Parts Prohibition

(1) After modification of an airplane as required by paragraph (g) of this AD, do not install any PBOV having P/N A25315–1 on that airplane.

(2) For an airplane that, as of the effective date of this AD, has a PBOV having P/N A25315020–2 installed: As of the effective date of this AD, do not install any PBOV having P/N A25315–1 on that airplane.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0153, dated August 17, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0301.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A300–32–0467, dated July 4, 2017.

(ii) Airbus Service Bulletin A300–32–6117, dated July 4, 2017.

(iii) Airbus Service Bulletin A310–32–2151, dated July 4, 2017.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Des Moines, Washington, on August 30, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21464 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 410

Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') has completed its regulatory review of its Trade Regulation Rule Concerning the Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets (''Picture Tube Rule'' or ''Rule''), as part of its systematic review of all current Commission regulations and guides. Pursuant to that review, the Commission now determines that the Rule is no longer necessary to prevent deceptive claims regarding the size of television screens and to encourage uniformity and accuracy in their marketing. The Commission, therefore, repeals the Rule.

DATES: This rule is effective January 7, 2019.

ADDRESSES: Relevant portions of the record of this proceeding, including this document, are available at *https://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: John Andrew Singer, Attorney, (202) 326–3234, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–9528, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission promulgated the Picture Tube Rule in 1966 [1] to prevent deceptive claims regarding the size of television screens and to encourage uniformity and accuracy in marketing. When the Commission adopted the Rule, it expressed concern about consumer confusion regarding whether a television's advertised screen dimension represented the actual viewable area of a convex-curved cathode ray tube (CRT) or included the viewable area of the picture tube plus non-viewable portions of the tube, such

[1] 31 FR 3342 (Mar. 3, 1966).

as those behind a casing. In addition, the Commission concluded that most consumers perceived the sizes of rectangular shaped objects, like television screens, in terms of their length or width, not their diagonal dimension.[2]

Based on these concerns, the Rule sets forth the means to non-deceptively advertise the dimensions of television screens.[3] Thus, marketers must base any representation of screen size on the horizontal dimension of the actual, viewable picture area unless they disclose the alternative method of measurement (such as the diagonal dimension) clearly, conspicuously, and in close connection and conjunction to the size designation.[4] The Rule also directs marketers to base the measurement on a single plane, without taking into account any screen curvature,[5] and includes examples of both proper and improper size representations.[6]

II. Regulatory Review

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, regulatory and economic impact, and general effectiveness in protecting consumers and helping industry avoid deceptive claims. These reviews assist the Commission in identifying rules and guides that warrant modification or repeal. The Commission last reviewed the Rule in 2006, leaving it unchanged.[7]

A. 2017 Advance Notice of Proposed Rulemaking (ANPR)

In its 2017 ANPR initiating the current Rule review, the Commission solicited comment on, among other things: The economic impact of and the continuing need for the Rule; the Rule's benefits to consumers; and the burdens it places on industry, including small businesses.[8]

The Commission further solicited comment regarding how consumers understand dimension claims for television screens, including: Whether consumers understand the stated dimensions; whether the dimensions are limited to the screen's viewable portion; and whether the dimensions are based on a single-plane measurement that does not include curvature in the screen. The Commission also solicited input on whether advances in broadcasting and television technology, such as the introduction of curved screen display panels and changing aspect ratios (*e.g.,* from the traditional 4:3 to 16:9), create a need to modify the Rule. Finally, the Commission requested comment regarding whether the Rule should address viewable screen size measurement reporting tolerances and rounding.[9]

The Commission received two comments in response, both urging the Commission to repeal the Rule.[10] Both commenters characterized the Rule as an unnecessary relic from when televisions used curved CRTs. For example, the Consumer Technology Association (CTA), a trade association representing the U.S. consumer technology industry, commented that televisions with fully viewable, single plane, flat screens have become ubiquitous, and that the use of the diagonal measurement to represent screen size, both for televisions and for products with viewing screens not within the scope of the Rule, has become standard.[11]

Commission staff observations confirmed that virtually all televisions in the marketplace have flat screens. Moreover, staff observed that marketers uniformly advertise the diagonal screen measurement for televisions, as well as for devices with screens not subject to the Rule, such as computer monitors, tablets, and cellphones.[12]

B. 2018 Notice of Proposed Rulemaking (NPR)

Based upon the comments to the ANPR and staff's observations, the Commission's 2018 NPR proposed repealing the Rule.[13] In the NPR, the Commission observed that the record suggested that the Rule has not kept up with changes in the marketplace. The Commission noted that there have been substantial changes in television screen technology since the Rule's adoption, particularly in the past decade. In 1966, television screens had CRTs,[14] portions of which did not provide a viewable image.[15] Today, virtually all televisions have flat screens where the viewable image covers the entire surface.[16] Consequently, a television screen's viewing area is easy to ascertain and, therefore, claims regarding viewing area are not likely to deceive consumers.[17] The Commission also stated that mandatory screen measurements appear to no longer be necessary to prevent consumer deception because the industry standard for representing screen size is a screen's diagonal dimension.[18] Finally, the Commission concluded that the record lacked evidence of deception supporting retaining the Rule. In response to the ANPR, the Commission received no comments advocating for the Rule's retention or submitting information indicating that manufacturers are making deceptive screen size claims.

Accordingly, in its 2018 NPR, the Commission preliminarily concluded that the Rule is outdated and no longer necessary to protect consumers and stated that, ''[n]othing in the record suggests that repealing the Rule would likely result in any consumer deception.'' [19] It also sought further comment on the costs, benefits, and market effects of repealing the Rule, and particularly the cost on small businesses.[20]

III. Issues Raised by Commenters to the 2018 NPR

The Commission received four comments in response to the NPR.[21] CTA reiterated that the Commission should repeal the Rule. Three individual consumers argued the Commission should retain the Rule, but did so without submitting any evidence to support their position.

In support of repeal, CTA repeated its contention that the state of technology for televisions—flat screens extending to virtually the end of any casing—make it unlikely that any manufacturer would use any measurement other the diagonal dimension of the screen to represent its size.[22] CTA reiterated that even manufacturers of consumer products with screens not subject to the Rule, such as monitors, smartphones and tablets, uniformly use the diagonal measurement to represent screen size.[23] Consequently, CTA stated that keeping the Rule would not provide any

[2] *Id.* at 3342–43.

[3] 16 CFR 410.1.

[4] *Id.*

[5] *Id.,* Note 1.

[6] *Id.,* Note 2.

[7] 71 FR 34247 (June 14, 2006).

[8] 82 FR 29256 (June 28, 2017).

[9] *Id.* at 29257–58.

[10] The comments are located at: *https://www.ftc.gov/policy/public-comments/2017/07/initiative-707.* Jonathan Applebaum (#3) and Consumer Technology Association (''CTA'') (#4) submitted comments. CTA's comment to the ANPR is cited herein as ''CTA–I.''

[11] 83 FR 17117, 17118 (Apr. 18, 2018).

[12] *Id.* at 17118.

[13] *Id.* at 17118–19.

[14] CTA–I at 4.

[15] *Id.*

[16] *Id.* at 5; 83 FR at 17119.

[17] *See, e.g.,* 60 FR 65529 (Dec. 20, 1995) (Commission repealed Binocular Rule, former 16 CFR part 402, finding technological improvements rendered it obsolete).

[18] 83 FR at 17119.

[19] *Id.*

[20] *Id.* at 17119–20.

[21] These comments are located at: *https://www.ftc.gov/policy/public-comments/2018/03/initiative-744.* John Stover (#2), Georgianne Giese (#3), Frank Muenzer (#4), and CTA (#5) submitted comments. CTA's comment to the NPR is cited herein as ''CTA–II.''

[22] CTA–II at 4–5.

[23] *Id.* at 5.

meaningful benefit to consumers because market forces will continue to make a screen's diagonal measurement the industry standard for televisions.[24] CTA also noted that the Commission has not brought an enforcement action to compel compliance with the Rule in the more than 50 years since its adoption.[25] Repealing the Rule, according to CTA, would not create any significant costs for manufacturers since they already use the diagonal screen measurement, and there is nothing to suggest that this would change after repeal.[26]

CTA also asserted that the Commission previously repealed trade regulation rules under similar circumstances, including when rules became obsolete due to changing technology;[27] decades had passed without any enforcement actions;[28] and any problems with deception arising after a rule repeal could be addressed on a case-by-case basis in the absence of an industry-wide rule.[29]

Finally, CTA requested that, in addition to repealing the Rule, the Commission affirmatively declare that all ''state regulations akin to the Rule—including interpretations of state laws prohibiting unfair or deceptive acts or practices—are in conflict with federal policy and are therefore preempted.''[30] CTA contended that a decision by the Commission not to regulate television screen measurement by repealing the Rule creates a federal policy that no entity may regulate television screen measurement. Therefore, according to CTA, the Commission's decision not to regulate an issue has the identical preemptive effect as the issuance of an affirmative regulation on an issue.[31]

Three individual consumers urged the Commission to retain the Rule unchanged. John Stover stated the Rule should remain in effect because its retention ''does no harm.'' Georgianne Giese commented the Rule should remain in effect because, ''if it ain't broke, don't fix it,'' and because the Rule standardizes television screen measurement. Finally, Frank Muenzer stated that the proposed repeal of the Rule ''appears to be a politically motivated completely unnecessary removal of a useful regulation.''[32]

IV. Basis for Repealing the Rule

Section 18 of the FTC Act, 15 U.S.C. 57a, authorizes the Commission to promulgate, amend, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1). The Commission regularly reviews its rules to ensure they are up-to-date, effective, and not overly burdensome, and has repealed a number of trade regulation rules after finding they were no longer necessary to protect consumers.[33]

The additional comments received in response to the NPR affirm the Commission's preliminary conclusion[34] that current conditions support repealing the Rule. As explained in detail below, the record indicates that: (1) The Rule has not kept up with changes in the marketplace; (2) mandatory screen measurement instructions are no longer necessary to prevent consumer deception; and (3) manufacturers are not making deceptive screen size claims. Therefore, based on the record, the Commission now repeals the Rule.

First, the record indicates that the Rule has not kept up with changes in the marketplace. Specifically, as both CTA's comments and Commission staff's observations confirm, virtually all televisions now have flat screens where the viewable image covers the entire surface.[35] Moreover, these televisions are surrounded by thin bezels, not casings or console walls, which do not obscure any of the screens. Thus, in contrast to technology at the time the Commission promulgated the Rule, there currently is no ambiguity regarding a television screen's viewing area. Screen size claims, therefore, no longer are fertile ground for widespread deceptive claims.

Second, to the extent lack of uniformity in screen size measurements (*i.e.,* diagonal vs. horizontal) increases the chances of deception, the Rule is not now necessary to create that uniformity. CTA's comments confirm staff's observation that, although the Rule mandates a single plane horizontal measurement of a television screen's viewable portion as the default measurement,[36] the industry universally measures television screen sizes using the diagonal dimension.[37] The record further demonstrates that manufacturers universally use a screen's diagonal dimension to represent sizes for screens contained in the many consumer devices outside the scope of the Rule.[38] The ubiquity of the diagonal dimension indicates that consumers expect to compare screens' diagonal dimensions when purchasing televisions. Thus, the market has created the uniformity the Rule originally sought.

Finally, the record lacks evidence of any deception in the marketplace that supports a continuing need for the Rule. No commenter submitted information indicating that manufacturers are making deceptive screen size claims. Additionally, the Commission has received no complaints about manufacturers making such claims over the past 5 years.[39]

Accordingly, the Commission concludes that the Rule is no longer necessary to protect consumers from deceptive representations of screen size or to encourage uniformity and accuracy in marketing televisions. Nothing in the record suggests that repealing the Rule would likely result in any consumer deception. Therefore, any minimal costs associated with the Rule for businesses now outweigh any benefits to consumers.[40] The Commission can address any deceptive marketing on a case-by-case basis through enforcement actions brought under Section 5(a) of the FTC Act, 15 U.S.C. 45(a), rather than by imposing an industry-wide trade regulation rule.[41]

[24] *Id.* at 5–6.

[25] *Id.* at 6.

[26] *Id.* at 7.

[27] *Id.* at 7–8 (citing Commission's 1995 repeal of the Binocular Rule).

[28] *Id.* (citing Commission's 1996 repeal of Games of Chance Rule).

[29] *Id.* (citing Commission's 1996 repeal of Leather Belt Rule).

[30] *Id.* at 11.

[31] *Id.* at 10.

[32] *See* n. 21, *supra.*

[33] *See, e.g.,* 16 CFR part 419 (games of chance) (61 FR 68143 (Dec. 27, 1996) (rule outdated; violations largely non-existent; and rule has adverse business impact); 16 CFR part 406 (used lubricating oil) (61 FR 55095 (Oct. 24, 1996)) (rule no longer necessary, and repeal will eliminate unnecessary duplication); 16 CFR part 405 (leather content of waist belts) (61 FR 25560 (May 22, 1996)) (rule unnecessary and duplicative; rule's objective can be addressed through guidance and case-by-case enforcement); and 16 CFR part 402 (binoculars) (60 FR 65529 (Dec. 20, 1995)) (technological improvements render rule obsolete). These prior rule repeals demonstrate that the Commission has a long-standing practice of repealing certain trade regulation rules when, as here, they are no longer necessary to prevent consumer deception.

[34] 83 FR at 17119.

[35] CTA–I at 4–5; CTA–II at 4–5; 83 FR at 17118.

[36] 31 FR 3342, 3343 (Mar. 3, 1966) (former 16 CFR 4.103(b)); 16 CFR 410.1. Manufacturers may use an alternative method of measurement if they disclose this method clearly, conspicuously, and in close connection and conjunction to the size designation. 16 CFR 410.1.

[37] CTA–I at 5–6; CTA–II at 5–6; 83 FR at 17118.

[38] CTA–II at 5–6; 83 FR at 17118.

[39] The Commission retains complaint data for five years. The data reported above is based on a search of Consumer Sentinel conducted on July 18, 2018.

[40] *See* CTA–I at 7–8; CTA–II at 7.

[41] 15 U.S.C. 45(a). *See* CTA–I at 3 and CTA–II at 7–8. *See also, e.g.,* 61 FR 25560, 25560–61 (May 22, 1996) (in repealing Leather Content in Waist Belts Rule due, in part, to lack of the need for

V. The Repeal of the Rule Is Not Intended To Preempt State Action for Deceptive or Unfair Acts or Practices Regarding Television Screen Size

To prevent what CTA characterized as the potential for ''a complicated patchwork quilt of inconsistent [state law] mandates,'' [42] it asked the Commission to issue an affirmative statement that by repealing the Rule it intends to preempt any state regulatory or enforcement actions regarding representations of television screen size.[43] The Commission declines to issue such a statement.

While the Commission concludes that a trade regulation rule for television screen measurement is no longer necessary, it retains its authority to address future unfair or deceptive practices relating to television screen measurement on a case-by-case basis.[44] Similarly, states have authority under analogous state laws. Therefore, the Commission's repeal of the Rule is not intended to preempt the states from taking regulatory or enforcement actions to prevent deception or unfairness concerning television screen measurement.

VI. Regulatory Flexibility Act and Regulatory Analysis

Under Section 22 of the FTC Act, 15 U.S.C. 57b–3, the Commission must issue a final regulatory analysis for a proceeding to amend a rule only when it: (1) Estimates that the amendment will have an annual effect on the national economy of $100 million or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission determines that the repeal of the Rule will not have such effects on the national economy; on the cost of televisions; or on covered parties or consumers. The Rule repeal, rather than imposing any costs on covered parties or consumers, will eliminate any costs associated with complying with the Rule. Accordingly, the repeal of the Rule is exempt from Section 22's final regulatory analysis requirements.

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of the anticipated economic impact of the amendment of a rule on small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers the impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA, 5 U.S.C. 605, provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. The Commission concludes that the repeal of the Rule will not have a significant economic impact upon small entities because the Rule's repeal will eliminate any costs associated with complying with the Rule. Therefore, in the Commission's view, the repeal of the Rule will not have a significant or disproportionate impact on the costs of small entities that sell televisions. These entities appear to provide consumers with the screen size as measured by a television's manufacturer and that typically appears on a television's packaging. In addition, the Commission is not aware of any existing federal laws or regulations that address the measurement of television screens and that would conflict with the repeal of the Rule. Therefore, based on available information, the Commission certifies that repealing the Rule will not have a significant economic impact on a substantial number of small entities.

VII. Repeal of Rule

For the reasons stated in the preamble, and under the authority of 15 U.S.C. 57a, the Commission removes 16 CFR part 410.

List of Subjects in 16 CFR Part 410

Advertising, Electronic funds transfer, Television, and Trade practices.

By direction of the Commission, Commissioner Wilson not participating.

Donald S. Clark,

Secretary.

PART 410—[REMOVED]

■ Accordingly, under the authority of 15 U.S.C. 57a, the Commission removes 16 CFR part 410.

[FR Doc. 2018–21803 Filed 10–5–18; 8:45 am]

BILLING CODE 6750–01–P

enforcement, the Commission stated that should it find any future deception of the type that the Rule was intended to prevent, the Commission could address this deception through case-by-case enforcement).

[42] CTA–II at 9.

[43] CTA–II at 9–11.

[44] *See* n. 41, *supra.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2016–F–1444]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Styrene

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is amending the food additive regulations to no longer provide for the use of styrene as a flavoring substance and adjuvant for use in food because these uses have been abandoned. We are taking this action in response to a food additive petition submitted by the Styrene Information and Research Center (SIRC).

DATES: This rule is effective October 9, 2018. See section VIII for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing on the final rule by November 8, 2018.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before November 8, 2018. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic objections in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection 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

objection, that information will be posted on *https://www.regulations.gov.*

• If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection 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 objections submitted to the Dockets Management Staff, FDA will post your objection, 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–2016–F–1444 for ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Styrene.'' Received objections, 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.

• Confidential Submissions—To submit an objection with confidential information that you do not wish to be made publicly available, submit your objections 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.gpo.gov/fdsys/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.

FOR FURTHER INFORMATION CONTACT: Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740–3835, 240–402–1071.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 15, 2016 (81 FR 38984), we announced that we filed a food additive petition (FAP 6A4817), submitted by SIRC, c/o Keller and Heckman LLP, 1001 G Street NW, Suite 500 West, Washington, DC 20001. The petition proposed to amend § 172.515 *Synthetic flavoring substances and adjuvants* (21 CFR 172.515) to no longer provide for the use of styrene (CAS Reg. No. 100–42–5) as a synthetic flavoring substance and adjuvant in food because these uses of styrene have been abandoned. Any use of styrene other than as a synthetic flavoring substance and adjuvant in food in accordance with § 172.515 was considered outside the scope of this petition.

II. Evaluation of Abandonment

Section 409(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 348(i)) states that we must by regulation establish the procedure for amending or repealing a food additive regulation and that this procedure must conform to the procedure provided in section 409 of the FD&C Act for the issuance of such regulations. Our regulations specific to administrative actions for food additives provide that the Commissioner of Food and Drugs, on his own initiative or on the petition of any interested person, under 21 CFR part 10, may propose the issuance of a regulation amending or repealing a regulation pertaining to a food additive or granting or repealing an exception for such additive (§ 171.130(a) (21 CFR 171.130(a))). The regulations further provide that any such petition must include an assertion of facts, supported by data, showing that new information exists with respect to the food additive or that new uses have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the existing regulation or exemption may justify its amendment or repeal. New data must be furnished in the form specified in §§ 171.1 and 171.100 for submitting petitions (§ 171.130(b)). Under these regulations, a petitioner may propose that we amend a food additive regulation if the petitioner can demonstrate that there are ''old uses abandoned'' for the relevant food additive. Such abandonment must be complete for any intended uses in the United States market. While section 409 of the FD&C Act and § 171.130 also provide for amending or revoking a food additive regulation based on safety, an amendment or revocation based on abandonment is not based on safety, but is based on the fact that regulatory authorization is no longer necessary because the use of that food additive has been abandoned.

Abandonment may be based on the abandonment of certain authorized food additive uses for a substance (*e.g.,* if a substance is no longer used in certain product categories) or on the abandonment of all authorized food additive uses of a substance (*e.g.,* if a substance is no longer being manufactured). If a petition seeks an amendment to a food additive regulation based on the abandonment of certain uses of the food additive, such uses should be adequately defined so that both the scope of the abandonment and any amendment to the food additive regulation are clear.

The petition submitted on behalf of SIRC contains information collected from its members to support the petitioner's claim that styrene is no longer manufactured, imported, or otherwise marketed for use as a synthetic flavoring substance and adjuvant in food in the U.S. market and that industry has abandoned such use of styrene. Specifically, the petition contained information SIRC collected through surveying its membership, which contains over 95 percent of the current North American styrene industry, to verify that its members:

• Do not currently manufacture styrene for use as a synthetic flavoring substance and adjuvant in food in the United States;

• do not currently import styrene for use as a synthetic flavoring substance and adjuvant in food into the United States;

• do not intend to manufacture or import styrene for use as a synthetic flavoring substance and adjuvant in food in the United States in the future; and

• do not currently maintain any inventory of styrene for sale or distribution into commerce that is intended to be marketed for use as a synthetic flavoring substance and adjuvant in food in the United States.

SIRC also confirmed that no foreign manufacturers appear to be using or marketing styrene for use as a synthetic flavoring substance or adjuvant in food, based on information received from the Japan Styrene Industry Association, the European Chemical Industry Council, and contacts in China.

Additionally, SIRC consulted with the Flavor and Extract Manufacturers Association of the Unites States and received a determination confirming that the Flavor and Extract Manufacturers Association members no longer use or produce styrene as a synthetic flavoring substance or adjuvant in food. The Flavor and Extract Manufacturers Association also submitted to the docket for this petition data and information in support of the petition, which FDA reviewed and evaluated in making its decision on this petition. The Flavor and Extract Manufacturers Association is a national association of the U.S. flavor industry whose members include flavor manufacturers, flavor users, flavor ingredient suppliers, and others. Based on information provided from Flavor and Extract Manufacturers Association, its members manufacture more than 95 percent of all flavoring substances sold in the United States.

III. Comments on the Filing Notice

We provided 60 days for comments on the filing notice. We received two comments. For ease of reading, we preface each comment discussion with a numbered ''Comment,'' and the word ''Response'' appears before FDA's response. The number assigned is for organizational purposes only and does not signify any individual comment's value, importance, or order in which it was received. One comment expressed concerns about the timing of FDA action on SIRC's abandonment petition. This comment is summarized below, followed by FDA's response. The other comment supported SIRC's conclusions that the use of styrene as a synthetic flavoring substance or adjuvant in food has been abandoned.

(Comment 1) One comment requested that we not make a final decision on the petition until after we make a final decision on a food additive petition (FAP 5A4810) submitted in 2015 by several consumer groups asking us to remove styrene (and six other additives) from § 172.515 as a synthetic flavoring substance and adjuvant in food on the basis that it is not safe for use in food (Docket No. FDA–2015–F–4317). The comment stated that if we make a decision on the petition based on abandonment before making a decision on FAP 5A4810 based on safety, a company may conclude that the use of styrene is generally recognized as safe (GRAS) without notifying us. The comment also stated that making a decision based on abandonment ''leaves unresolved the safety issue . . . and encourages industry to only consider whether something is abandoned in order to preempt a safety decision.'' Further, the comment stated that FDA is statutorily required to regulate food additives and prevent the use of those that are unsafe and that FDA's failure to make a determination based on safety would fall short of FDA's statutory duty.

(Response 1) FDA disagrees. We are not required to make a final decision on FAP 5A4810 before the current petition. With regard to the assertion that FDA is required to make a safety determination and that failure to do so falls short of FDA's statutory duty, FDA has numerous responsibilities related to food additives. Each year, FDA receives and responds to hundreds of submissions under the various petition and notification programs we administer. Therefore, if the use of a food additive is no longer authorized in response to an abandonment petition, FDA may determine that it is neither necessary nor an efficient use of its limited resources to address safety arguments related to an abandoned use.

With regard to the comment's concern that a manufacturer may conclude that the use of styrene as a synthetic flavoring substance and adjuvant in food is GRAS without notifying us, we note that, for a substance to be GRAS based on scientific procedures, the scientific data and information about the use of a substance must be generally available and there must be general recognition among qualified experts that those data and information establish that the substance is safe under the conditions of its intended use (21 CFR 170.30). Prior approval as a food additive does not mean that the use of a substance is GRAS (see 81 FR 54960 at 54976, August 17, 2016). FDA encourages firms to seek our evaluation of any conclusion of GRAS status before they introduce the substance into the market. In the event that a manufacturer later wishes to reinstate the use of styrene as a synthetic flavoring substance and adjuvant in food, we would expect the manufacturer to seek re-authorization through submission of a food additive petition because this intended use was previously authorized under section 409 of the FD&C Act.

With regard to the assertion that an abandonment petition could be used by industry to preempt a safety determination by FDA, we have the discretion to make a safety determination regardless of whether there is an abandonment petition.

Elsewhere in this issue of the **Federal Register** we have published a final rule in response to FAP 5A4810 amending § 172.515 to no longer authorize the use of benzophenone, ethyl acrylate, eugenyl methyl ether, myrcene, pulegone, and pyridine as synthetic flavoring substances and adjuvants in food.

IV. Conclusion

FDA reviewed the data and information in the petition and other available relevant material to evaluate whether the use of styrene as a synthetic flavoring substance and adjuvant in food has been has been permanently and completely abandoned. Based on the available information, we have determined that the use of styrene as a synthetic flavoring substance and adjuvant in food has been abandoned. Therefore, we are amending § 172.515 to no longer provide for the use of styrene as a synthetic flavoring substance and adjuvant in food.

V. Public Disclosure

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), we will delete from the documents any materials that are not available for public disclosure.

VI. Analysis of Environmental Impact

We previously considered the environmental effects of this rule, as stated in the June 15, 2016, **Federal Register** notice of petition for FAP 6A4817 (81 FR 38984). We stated that we had determined, under 21 CFR 25.32(m), that this action ''is of a type that does not individually or cumulatively have a significant effect on the human environment'' such that neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments that would affect our previous determination.

VII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Objections

If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.*

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

§ 172.515 [Amended]

■ 2. Amend § 172.515(b) by removing the entry for ''Styrene.''

Dated: October 2, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21808 Filed 10–5–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172 and 177

[Docket No. FDA–2015–F–4317]

Food Additive Regulations; Synthetic Flavoring Agents and Adjuvants

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; notification of partial denial of petition.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is partially granting a petition submitted by the Breast Cancer Fund (now known as the Breast Cancer Prevention Partners), Center for Environmental Health, Center for Food Safety, Center for Science in the Public Interest, Consumers Union, Environmental Defense Fund, Environmental Working Group, Improving Kids' Environment, Natural Resources Defense Council, WE ACT for Environmental Justice, and Mr. James Huff, by amending the food additive regulations to no longer authorize the use of benzophenone, ethyl acrylate, eugenyl methyl ether, myrcene, pulegone, and pyridine as synthetic flavoring substances for use in food. We are taking this action because, despite FDA's scientific analysis and determination that these substances do not pose a risk to public health under the conditions of their intended use, the petitioners provided data demonstrating that these additives induce cancer in laboratory animals, and, as a result of this finding in animals, FDA cannot as a matter of law maintain the listing of these synthetic flavoring substances in the food additive regulations. Because of evidence that benzophenone causes cancer in animals, FDA also is amending the food additive regulations to no longer provide for the use of benzophenone as a plasticizer in rubber articles intended for repeated use in contact with food. FDA is denying as moot the portions of the petition proposing that the food additive regulations be amended to no longer authorize the use of styrene as a synthetic flavoring substance because this use has been permanently and completely abandoned. In addition, FDA is declining to act on the petitioners' request to issue a regulation to prohibit the use of these synthetic flavoring substances in food because that issue is not the proper subject of a food additive petition.

DATES: This rule is effective October 9, 2018. See section IX for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing on the final rule by November 8, 2018.

ADDRESSES: You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. Electronic objections must be submitted on or before November 8, 2018. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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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–2015–F–4317 for ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Synthetic Flavoring Agents and Adjuvants.'' Received objections, 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.

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FOR FURTHER INFORMATION CONTACT:

Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740–3835, 240–402–1071.

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Introduction
II. Background
A. Statutory and Regulatory Background
B. Abandonment of Use of Styrene Authorized Under 21 CFR 172.515
C. History of the Regulation of the Synthetic Flavoring Substances and Adjuvants
D. Summary and Context of Determination
III. Evaluation of Carcinogenicity
A. Benzophenone
B. Ethyl Acrylate
C. Methyl Eugenol
D. Myrcene
E. Pulegone
F. Pyridine
IV. Comments on the Notice of Petition
A. Legal and Policy Issues
B. Scientific Issues
V. Conclusion
VI. Public Disclosure
VII. Analysis of Environmental Impacts
VIII. Paperwork Reduction Act
IX. Objections
X. References

I. Introduction

In the **Federal Register** of January 4, 2016 (81 FR 42), we announced that the Center for Science in the Public Interest, Natural Resources Defense Council, Center for Food Safety, Consumers Union, Improving Kids' Environment, Center for Environmental Health, Environmental Working Group, Environmental Defense Fund, and James Huff (the petitioners), c/o Mr. Tom Neltner, 1875 Connecticut Ave. NW, Washington, DC 2009, had jointly filed a food additive petition (FAP 5A4810). Subsequently, the Breast Cancer Fund (now known as Breast Cancer Prevention Partners) and WE ACT for Environmental Justice joined as co-petitioners.

The petition proposed that we take two separate regulatory actions: (1) Amend the food additive regulations in § 172.515 *Synthetic flavoring substances and adjuvants* (21 CFR 172.515) to no longer authorize the use of seven listed synthetic flavoring food additives and (2) to establish zero tolerances in § 172.515 for these additives. However, the food additive regulation is not the appropriate section for a ''zero tolerance,'' and this request is not the proper subject of a food additive petition. A food additive petition must either propose the issuance of a regulation prescribing the conditions under which a food additive may be safely used (see section 409(b)(1) of the Federal Food, Drug, & Cosmetic Act (FD&C Act) (21 U.S.C. 348(b)(1)), or propose the amendment or repeal of an existing food additive regulation (see section 409(i) of the FD&C Act. Only the petitioners' request to amend § 172.515 to remove the seven synthetic flavorings and adjuvants from FDA's regulations permitting their use as additives in food falls within the statutory scope of a food additive petition. Therefore, the petitioners' request that we establish zero tolerances for these seven flavoring additives falls outside the scope of a food additive petition. As a result, we are not addressing that request further in this rule. (An interested person may use the citizen petition process to request the issuance of a regulation, including a request to establish a ''zero tolerance,'' which we interpret as a request to issue a regulation prohibiting a substance from human food under part 189 (see 21 CFR 189.1(c) (referring to 21 CFR part 10, which sets forth FDA's citizen petition process)). (In addition, we understand the petitioners are no longer pursuing this request based on a public filing with a U.S. court of appeals (stating ''[t]he Petition also requested that FDA 'establish a zero tolerance [standard]. . . for the use of these seven flavors.' . . . Petitioners are no longer pursuing this aspect of the Petition''). (See *In Re Breast Cancer Prevention Partners,* No. 18–71260 (9th Cir.)). Thus, in this rule we focus solely on the request to amend the food additive regulations.

The seven food additives that are the subject of this petition are:

1. Benzophenone (also known as diphenylketone) (CAS No. 119–61–9);
2. Ethyl acrylate (CAS No. 140–88–5);
3. Eugenyl methyl ether (also known as 4-allylveratrole or methyl eugenol) (CAS No. 93–15–2);
4. Myrcene (also known as 7-methyl-3-methylene-1,6-octadiene) (CAS No. 123–35–3);
5. Pulegone (also known as *p*-menth-4(8)-en-3-one) (CAS No. 89–82–7);
6. Pyridine (CAS No. 110–86–1); and
7. Styrene (CAS No. 100–42–5).

We stated in the notice of petition that, although the petition only proposes to amend § 172.515 to no longer provide for the use of these seven synthetic flavoring substances, FDA's action in response to the petition could affect other regulations that provide for the use of the additives. Specifically, in the notice we identified the use of benzophenone, which is approved as an indirect food additive, *i.e.,* a plasticizer (diphenylketone in § 177.2600 (21 CFR 177.2600(c)(4)(iv))), as potentially being impacted by our regulatory decision. The notice of petition gave interested parties until March 4, 2016, to submit

comments on the filed food additive petition. In response to a written request submitted to the docket, we extended the comment period to May 3, 2016 (81 FR 8867, February 23, 2016).

This final rule partially granting the request to revise the regulations to no longer provide for the use of these synthetic flavorings in food, and the partial denial given the petitioners' request falls outside the scope of the food additive petition process, completely responds to the petition.

II. Background

A. Statutory and Regulatory Background of Food Additive Regulation

The FD&C Act authorizes us to regulate ''food additives'' (see section 409(a) of the FD&C Act). The FD&C Act defines ''food additive,'' in relevant part, as any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component of food (see section 201(s) of the FD&C Act (21 U.S.C. 321(s))). Food additives can include both substances added directly to food and ''food contact substance[s]'' (*i.e.,* substances intended for use in materials that come into contact with food, for instance in food packaging or manufacturing, but which are not intended to have any technical effect in the food (see § 170.3(e)(3) (21 CFR 170.3(e)(3))). Food additives are deemed unsafe and prohibited except to the extent that we approve their use (see, *e.g.,* section 301(a) and (k) (21 U.S.C. 331(a) and (k)) and 409(a) of the FD&C Act).

The FD&C Act provides a process through which persons who wish to use a food additive may submit a petition proposing the issuance of a regulation prescribing the conditions under which the additive may be safely used (see section 409(b)(1) of the FD&C Act). Such a petition is referred to as a ''food additive petition.'' A food additive petition must either propose the issuance of a regulation prescribing the conditions under which a food additive may be safely used (see section 409(b)(1) of the FD&C Act), or propose the amendment or repeal of an existing food additive regulation (see section 409(i) of the FD&C Act). When we conclude that a proposed use of a food additive is safe, we issue a regulation called a ''food additive regulation'' authorizing a specific use of the substance.

A food additive cannot be approved for use unless the data presented to FDA establish that the food additive is safe for that use (section 409(c)(3)(A) of the FD&C Act). To determine whether a food additive is safe, the FD&C Act requires FDA to consider, among other relevant factors: (1) Probable consumption of the additive; (2) cumulative effect of such additive ''in the diet of man or animals''; and (3) safety factors recognized by experts ''as appropriate for the use of animal experimentation data'' (section 409(c)(5) of the FD&C Act). FDA's determination that a food additive use is safe means that there is a ''reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use'' (§ 170.3(i)). However, FDA cannot approve a food additive if it is found ''to induce cancer when ingested by man or animal, or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal'' (section 409(c)(3)(A) of the FD&C Act). This provision, which is often referred to as the ''Delaney Clause,'' was added to the FD&C Act by the Food Additives Amendment of 1958 (Pub. L. 85–929). The Delaney Clause limits FDA's discretion to determine the safety of food additives, in that it prevents FDA from finding a food additive to be safe if it has been found to induce cancer when ingested by humans or animals, regardless of the probability, or risk, of cancer associated with exposure to the additive or of the extent to which the experimental conditions of the animal study or the carcinogenic mode of action provide insight into the health effects of human consumption and use of the additive in question. In *Public Citizen* v. *Young,* the DC Circuit Court of Appeals held that Congress intended for the Delaney Clause to be ''extraordinarily rigid,'' to protect the public from cancer-causing substances without exception, rejecting FDA's argument that a particular color additive, which was subject to a similarly worded Delaney Clause for color additives, should be approved because it did not pose more than a de minimis cancer risk (831 F.2d 1108, 1122 (DC Cir. 1987); *see also Les* v. *Reilly,* 968 F.2d 985, 986 (9th Cir. 1992) (holding that the Environmental Protection Agency's refusal to revoke regulations permitting the use of certain pesticides (which were regulated as food additives at the time of the court decision), on the grounds that they pose a de minimis cancer risk, is contrary to the provisions of the Delaney Clause).

The FD&C Act provides that FDA must by regulation prescribe the procedure by which a food additive regulation may be amended or repealed (see section 409(i) of the FD&C Act). Our regulation specific to the administrative actions for food additives provides that the Commissioner of Food and Drugs (the Commissioner), on his or her own initiative or on the petition of any interested person, may propose the issuance of a regulation amending or repealing a regulation pertaining to a food additive (see § 171.130(a) (21 CFR 171.130(a))). Our regulation, at § 171.130(b), further provides that any such petition must include an assertion of facts, supported by data, showing that new information exists with respect to the food additive or that new uses have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the existing regulation or exemption may justify its amendment or repeal.

The specific food additive regulation at issue in the petition, § 172.515, lists synthetic flavoring substances and adjuvants that may be safely used in food in accordance with the conditions in the regulation. At issue in the petition are seven synthetic flavorings and adjuvants listed in this regulation: Benzophenone (also known as diphenylketone), ethyl acrylate, eugenyl methyl ether (also known as 4-allylveratrole or methyl eugenol), myrcene (also known as 7-methyl-3-methylene-1,6-octadiene), pulegone (also known as p-menth-4(8)-en-3-one, pyridine, and styrene. The petitioners assert that new data establish that these synthetic flavoring additives are carcinogenic and therefore not safe for use in food pursuant to the Delaney Clause.

B. Abandonment of Use of Styrene Authorized Under 21 CFR 172.515

Related to FAP 5A4810, in a document published in the *Federal Register* on June 15, 2016 (81 FR 38984), we announced that we filed a food additive petition (FAP 6A4817) proposing that we amend § 172.515 to no longer provide for the use of styrene as a synthetic flavoring substance and adjuvant in food because the use has been abandoned. Elsewhere in this issue of the *Federal Register*, we have published a final rule in response to FAP 6A4817 granting that petition and amending § 172.515 to no longer authorize the use of styrene as a synthetic flavoring substance and adjuvant in food because its use under § 172.515 has been permanently and completely abandoned. Because the final rule issued in response to FAP 6A4817 removes styrene from § 172.515—thereby taking one of the actions requested in this petition—the petitioners' request is moot, and it is neither necessary nor an efficient use of our resources to address the petitioners'

assertions regarding the safety of the food additive use of styrene that is no longer authorized. Therefore, we are denying as moot the request in FAP 5A4810 to remove styrene from § 172.515.

C. History of the Regulation of the Synthetic Flavoring Substances and Adjuvants

In the *Federal Register* of May 27, 1964 (29 FR 6957), FDA published a proposed rule to establish a regulation for synthetic flavoring substances and adjuvants used in food. The purpose of the proposed regulation was to identify those synthetic substances that may be safely used as flavoring substances or flavor adjuvants in food. The proposed regulation listed many synthetic flavoring substances and adjuvants in use at the time, including benzophenone, ethyl acrylate, eugenyl methyl ether, myrcene, pulegone, and pyridine. The proposed rule stated that, in reaching a conclusion about the safety of the substances listed in the proposed order, FDA relied upon experience based on the common use of these substances in food prior to 1958; the fact that many of the synthetic flavoring substances have a natural counterpart in food or in natural substances used to flavor foods; that metabolic and toxicity data representing studies made on selected flavoring substances were reviewed and safety established; and that relatively low and essentially self-limiting quantities are involved when these substances are used in food, consistent with good manufacturing practice. (29 FR 6957). In the *Federal Register* of October 27, 1964 (29 FR 14625), FDA issued a final rule based on this proposal with a few changes based on comments that were received and established this regulation in 21 CFR 121.1164. This regulation also limited the amount of the synthetic flavoring substance that could be added to food to the smallest amount necessary to achieve the desired flavoring effect. In the *Federal Register* of March 15, 1977 (42 FR 14302 at 14492), 21 CFR 121.1164 was redesignated § 172.515.

D. Summary and Context of Determination

We have evaluated the data and information submitted by the petitioners, as well as other relevant carcinogenicity data and information, and have determined the remaining six synthetic flavoring substances (*i.e.,* other than styrene) that are the subject of FAP 5A4810 are unlikely to pose a potential or significant carcinogenic risk for humans at the levels that these synthetic flavoring substances are used in foods, and that the use of these food additives is safe for human consumption. In other words, FDA has a reasonable certainty that the substances do no harm under the intended conditions of use (the standard for approving food additives). However, because data submitted by the petitioners demonstrate that these synthetic flavoring substances have been shown to induce cancer in animal studies, FDA cannot consider these synthetic flavoring substances to be safe as a matter of law because of the Delaney Clause, and must revoke the listings providing for the use of these synthetic flavoring substances and adjuvants, as described further in section III.

In making this determination, we reiterate the point, first made in our 1964 proposed rulemaking, that all of the synthetic flavoring substances that are the subject of the petition have a natural counterpart in food or in natural substances used to flavor foods. For example, benzophenone is present in grapes, ethyl acrylate is present in pineapple, eugenyl methyl ether (methyl eugenol) is present in basil, myrcene is present in citrus fruit, pulegone is present in peppermint, and pyridine is present in coffee. FDA's revocation of the listings providing for the use of these synthetic flavoring substances and adjuvants does not affect the legal status of foods containing natural counterparts or non-synthetic flavoring substances extracted from food, and there is nothing in the data FDA has reviewed in responding to the pending food additive petition that causes FDA concern about the safety of foods that contain natural counterparts or extracts from such foods.

III. Evaluation of Carcinogenicity

The petitioners assert that each of the synthetic flavoring substances (*i.e.,* benzophenone, ethyl acrylate, methyl eugenol, myrcene, pulegone, and pyridine) has been shown to induce cancer in animals by studies sponsored by the Department of Health and Human Services' National Toxicology Program (NTP). The petitioners also cite conclusions of the International Agency for Research on Cancer (IARC) and the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), and assert that information that became available after these food additives were listed in § 172.515 demonstrates that ''they are not safe for use in food pursuant to the Delaney Clause''; however, we note that the conclusions from IARC and OEHHA are based primarily on results from the NTP studies. Thus, our review of whether the synthetic flavoring substances that are the subject of the petition induce cancer in humans or animals focused on results of the NTP studies, as well as other available relevant information discussed in this rule.

As part of our scientific review, we also evaluated the genotoxicity of the synthetic flavoring substances. Based on their biological activities, chemical carcinogens can be classified as genotoxic (directly DNA reactive) and non-genotoxic (not directly DNA reactive but operating through a secondary mechanism) (Ref. 1). In cancer risk assessments, the traditional assumption for chemicals that are genotoxic is that there is no threshold exposure level below which there is no risk of cancer and that there is a risk of cancer at any level of exposure. In contrast, non-genotoxic carcinogens are assumed to have a threshold of exposure level below which tumor development is not anticipated and the risk of cancer is negligible (Ref. 2).

Additionally, as part of our review, we calculated Margins of Exposure (MOE) for each of the six synthetic flavoring substances. The MOE is the ratio between a point of departure (*e.g.,* no-observed-adverse-effect-dose or benchmark dose) and estimates of human dietary exposure. As a risk characterization tool, the MOE can be used to provide information on the level of public health concern. The MOE is invaluable in risk management for chemicals present in food, when a health-based guidance level is impossible to derive, such as with genotoxic and carcinogenic contaminants and veterinary drug residues (Refs. 2 and 3). If the MOE is very large (such as greater than 10,000), it can be an indication of a low level of human health risk (Ref. 3).

We also estimated dietary exposure for the six synthetic flavoring substances using information from the 2015 Poundage and Technical Effects Survey that the Flavor and Extract Manufacturers Association (FEMA) collected from its member companies that formulate flavoring substances (Ref. 4). (The acronym FEMA, as used throughout this rule, refers to the Flavor and Extract Manufacturers Association. It should not be confused with the Federal Emergency Management Agency that commonly is referred to by this same acronym.) Every 5 years FEMA surveys its members to estimate the total volume of flavoring substances added to food, or ''poundage data.'' (The 2015 poundage data were the most recent available.) FEMA's members include flavor manufacturers, flavor users, flavor

ingredient suppliers, and others with an interest in the U.S. flavor industry. According to FEMA, their flavor manufacturing members produce more than 95 percent of flavors consumed in the United States.

To estimate dietary exposure to the synthetic flavoring substances, we used a ''per-capita times ten'' approach that conservatively assumes 10 percent of the population consumes 100 percent of the available flavoring substance. Because the FEMA poundage data include the total poundage for both synthetic and naturally-sourced flavoring substances, our estimates of dietary exposure assumed that all of the flavoring substances added annually to food are synthetic; thus, for most of these substances, actual exposure to these synthetic flavoring substances is less than our conservative exposure estimates (Refs. 5 and 6).

As explained in more detail later in this section, although there were findings of carcinogenicity in animal studies, none of the data in our evaluations of the six synthetic flavoring substances supports a finding that they are human carcinogens when consumed at the levels of intended use. Additionally, with the exception of the data concerning methyl eugenol, the data from the animal studies demonstrated that the modes of action (MOA) of carcinogenicity are not acting through mechanisms of genotoxic alterations and are not relevant to humans.

For methyl eugenol, the data showed evidence for a potential concern for carcinogenic risk to humans based on the findings that: (1) A metabolite of methyl eugenol was found to be genotoxic and able to covalently bind with DNA to form DNA adducts (a DNA adduct is a segment of DNA bound to a cancer causing chemical); (2) methyl eugenol-DNA adducts have been detected in human lung and liver tissues; and (3) there is a potential metabolic pathway by which methyl eugenol could metabolize to a reactive metabolite, under specific reaction conditions that then may proceed to tumor formation and carcinogenesis. However, there are no available clinical or epidemiological data reporting tumor formation and carcinogenicity from methyl eugenol exposure in humans.

Additionally, we concluded that the risk of carcinogenicity in humans from consumption of methyl eugenol added to food as a synthetic flavoring substance is further reduced by the following mitigating factors: (1) The metabolic pathway, in which methyl eugenol converts to a genotoxic metabolite subsequently leading to tumor formation, does not serve as the primary metabolic/detoxification pathway for methyl eugenol in humans and the amount of the genotoxic metabolite generated is dose-dependent, occurring at higher doses and (2) compared to the low levels of added synthetic methyl eugenol as a flavoring substance, the levels of methyl eugenol tested in the NTP animal studies were very high test doses that likely overwhelmed physiological conditions of normalcy and overloaded systemic repair systems.

In assessing the potential human carcinogenicity of methyl eugenol associated specifically with the use of synthetic methyl eugenol as a flavoring substance, we also considered data indicating that exposure to methyl eugenol from foods that naturally contain methyl eugenol (*e.g.,* basil and other spices/herbs) is significantly higher (approximately 488 times higher) than exposure expected from the addition of synthetic methyl eugenol as a flavoring substance, and that these foods have been ingested by humans for millennia without apparent harm (Ref. 7). Based on our review of published literature up to May 2018, there is no clinical or epidemiological evidence suggesting an association between the typical dietary consumption of food items that naturally contain methyl eugenol and carcinogenic effects.

In sum, although the data do not indicate that these synthetic flavoring substances pose a public health risk as a human carcinogen, because these six synthetic flavoring substances have been found to induce cancer in animal studies, the Delaney Clause requires that FDA consider these synthetic flavoring substances to be unsafe as a matter of law, and FDA must revoke the listings providing for the use of these synthetic flavoring substances.

Below is a summary of FDA's analysis of each of the six synthetic flavoring substances and adjuvants.

A. Benzophenone

1. Exposure

Under § 172.515, benzophenone is permitted for use as a synthetic flavoring substance and adjuvant in foods in accordance with current good manufacturing practices (CGMP). FEMA estimated an annual production volume of 5 kilograms (kg) for benzophenone used as a flavoring substance and adjuvant in food based on information from the 2015 FEMA Poundage and Technical Effects Survey (Ref. 4). FEMA also estimated that 133 kg of benzophenone are available for consumption annually in the United States from its natural presence in foods (Ref. 8). Thus, benzophenone is present from natural sources in the food supply (*e.g.,* grapes) at a level 27 times greater than that from its use as a flavoring substance and adjuvant. Using the FEMA poundage data (assuming all reported poundage is for the synthetically-prepared flavoring substance) and a ''per-capita times ten'' approach, we estimated dietary exposure from benzophenone added to food as a synthetic flavoring and adjuvant to be 0.43 micrograms per person per day (μg/p/d), or 7.2×10^{3} μg/kilogram body weight/d (μg/kg bw/d) for a 60 kg person (Refs. 6 and 9).

Benzophenone also is permitted for use as a plasticizer in rubber articles intended for repeated use under § 177.2600. The upper-bound limit to the dietary exposure for benzophenone from this use is estimated to be 45 μg/p/d. This estimate assumes that 100 percent of an individual's diet is processed using rubber articles containing benzophenone as a plasticizer. While the exposure estimate for the use of benzophenone as a plasticizer in repeat use rubber articles is an overestimate of the actual exposure from this use, the estimated exposure is greater than that from the use of benzophenone as a flavoring substance by a factor of approximately 500. Thus, the combined exposure to benzophenone from its uses as a flavoring substance and as a plasticizer in food contact applications was estimated to be no more than 45 μg/p/d, or 0.75 μg/kg bw/d (Refs. 5 and 9).

2. Toxicology Studies

FDA reviewed data from 2 NTP-sponsored 105-week carcinogenic bioassays on benzophenone in F344/N rats and B6C3F1 mice. In these studies, the rats and mice were administered feed containing benzophenone at 0, 312, 625, or 1,250 parts per million per day (ppm/d) or milligrams per kilogram of feed/day (mg/kg/d). This dosing is equivalent to average daily doses of approximately 15, 30, and 60 mg benzophenone/kg bw to male rats and 15, 30, and 65 mg/kg bw to female rats; equivalent to average daily doses of approximately 40, 80, and 160 mg/kg bw to male mice and 35, 70, and 150 mg/kg bw to female mice (Ref. 9).

The NTP reported several carcinogenicity findings from these studies. They noted that there was some evidence of carcinogenicity due to increased incidence of renal (kidney) tubular tumors in treated male rats and increased incidence of mononuclear cell leukemia (MNCL) in all treated female rats. The mean incidence of MNCL in

the 625 ppm female dose group was significantly greater than that in the control female rats. The NTP also reported some evidence of carcinogenic activity in male mice based on increased incidence of hepatocellular (liver) neoplasms and some evidence of carcinogenicity in female mice based on increased incidence of histiocytic (originating from blood cells) sarcomas. Results showed that benzophenone produced tumors at the two highest doses in the studies. Occurrence of the key tumor types (*i.e.,* those tumor types the NTP considered to constitute ''some evidence'' of carcinogenicity) in animals at the lowest dose was not significantly different from that of the control groups. The NTP classified the occurrence of the key tumor types as constituting some evidence of carcinogenic activity rather than being clear evidence of carcinogenic activity (NTP's highest level of evidence of carcinogenicity). Benzophenone also was tested in several genotoxicity assays and found to be non-genotoxic.

Based on results from the NTP studies, FDA concluded that, under the conditions of the 2-year NTP bioassays, benzophenone induced renal tubular tumors in male rats and hepatocellular tumors in male mice (Ref. 9).

3. Risk Characterization

Based on the results of the NTP 2-year carcinogenicity studies we concluded that benzophenone induced cancer in animals under the test conditions of the studies. However, benzophenone is not genotoxic and unlikely to produce cancer through a direct DNA-reactive mechanism. Chronic progressive nephropathy (CPN, a spontaneous age-related disease that occurs commonly in rats) may be involved in benzophenone inducing renal tumors in rats; however, CPN as a MOA, a biologically plausible sequence of key events leading to an observed endpoint supported by robust experimental observations and mechanistic data (Ref. 10), for renal tumors in humans has not been established. Regarding the incidence of MNCL in female F344/N rats, we determined that it was not dose-dependent and that the incidence of this tumor in the control rats was outside the historical range. Therefore, we concluded that the occurrence of renal tumors in this study is not related to treatment with benzophenone. Additionally, MNCL is species- and strain-specific to the F344/N rat, and of little or no relevance to humans (Ref. 9).

Regarding the results from the mouse study, several authors have observed that hepatocellular neoplasms seen in 2-year bioassays in B6C3F1 mice typically are secondary responses to chronic hepatic toxicity and regenerative cellular proliferation or hypertrophy as a function of dose (Ref. 9). Evidence of hepatotoxicity in short duration studies also has been shown to be a good predictor of hepatic neoplasia in chronic studies and the higher susceptibility of the male mouse (Ref. 9). Although there is no definitive MOA for the development of benzophenone-associated liver tumors in the NTP study, the B6C3F1 male mouse has been shown to have a high incidence of spontaneously-occurring hepatocellular tumors, which is elevated after chemical exposure. Introduction of high doses of benzophenone may produce hepatotoxicity that exacerbates this propensity toward tumor development and results in their increased occurrence by a non-genotoxic mechanism. Although rarely reported in NTP studies, histiocytic sarcomas observed in the B6C3F1 mice have been reported to occur at a mean incidence of 5.5 percent in female B6C3F1 mice used as controls in 2-year carcinogenicity studies conducted at Bayer AG, Institute of Toxicology. This result was based on historical data accumulated over a 10-year period (1986–1996) and is in line with the 6 percent occurrence observed in the high dose (1,250 ppm) group in the benzophenone NTP study. Other authors also reported similar findings in B6C3F1 mice, with incidences of 3.5 percent and 5.5 percent in control males and females, respectively. Histiocytic sarcomas are rarely reported in humans, accounting for less than 1 percent of all the neoplasms reported in the lymph nodes or soft tissues. The histiocytic sarcomas identified in the female mice in the NTP study were not dose related (*i.e.,* 5/50 at 625 ppm and 3/50 at 1,250 ppm) and were found only at dose levels that induced overt toxicity (Ref. 9).

The lowest test dose (312 ppm) in the NTP 2-year studies was a dose at which no statistically significant treatment-related increase in tumor incidence was reported in rats or mice. This finding suggests that there may be a threshold level below which benzophenone does not induce tumors in rodents. Additionally, there is a large margin of exposure (MOE; 2.1×10^6 for rats, 4.7×10^6 for male mice, and 5.6×10^6 for female mice) between the lowest test dose and the estimated dietary exposure of 0.43 µg benzophenone/p/day (equivalent to 7.2×10^{-3} µg/kg bw/day) from its use as a flavoring substance. When benzophenone is used as a plasticizer in repeat use rubber articles exposed to food, the MOE for male and female rats is calculated to be 2×10^4 and for male and female mice, 5.3×10^4 and 4.7×10^4, respectively. Although these MOE values are lower than those for benzophenone's use as a synthetic flavoring substance, they are still sufficient to ensure an acceptable margin of safety (Ref. 9). It should also be noted that these results are based on estimated worst-case dietary exposure of 45 µg/person/d (0.75 µg/kg bw/d) from its use as a plasticizer (Ref. 5) and actual MOEs for this use probably would be higher. Considering these findings in a weight-of-evidence analysis, we concluded that benzophenone is unlikely to induce tumors in humans at current use levels as a synthetic flavoring substance and adjuvant in food (Ref. 9).

B. Ethyl Acrylate

1. Exposure

Under § 172.515, ethyl acrylate is permitted for use as a synthetic flavoring substance and adjuvant in foods in accordance with CGMP. FEMA estimated an annual production volume of 18 kg for ethyl acrylate used as a flavoring substance and adjuvant in food based on information from the 2015 FEMA Poundage and Technical Effects Survey (Ref. 4). FEMA also estimated that 9.2 kg of ethyl acrylate are available for consumption annually in the United States from its natural presence in foods (*e.g.,* pineapple) (Ref. 8). Thus, ethyl acrylate is present in foods from natural sources at 50 percent of the level from its use as a flavoring substance. Using the FEMA poundage data (assuming all reported poundage is for the synthetically-prepared flavoring substance) and a ''per-capita times ten'' approach, we estimated dietary exposure from ethyl acrylate's use as a synthetic flavoring substance and adjuvant in food to be 1.5 µg/person/d, or 0.025 µg/kg bw/d for a 60 kg person (Refs. 6 and 11).

2. Toxicology Studies

FDA reviewed data from 2 NTP-sponsored 103-week carcinogenic bioassays on ethyl acrylate in F344/N rats and B6C3F1 mice. In these studies, rats and mice were administered ethyl acrylate at 0, 100, or 200 mg/kg bw by gavage 5 days per week. The NTP reported carcinogenicity findings were confined to the forestomach of rats and mice. They also reported that the occurrence of these forestomach tumors had a statistically positive trend compared to the control animals. Ethyl acrylate also was tested in several genotoxicity studies. Based on the available data from these studies, we

concluded that ethyl acrylate is not genotoxic (Ref. 11).

We also concluded that under the test conditions of NTP's 2-year hazard assessment studies ethyl acrylate is a rodent carcinogen. Evidence, however, supports the findings that these tumors were produced by a non-genotoxic mechanism (Ref. 11).

3. Risk Characterization

The tumors observed in the NTP study were initiated by administering bolus doses of ethyl acrylate by gavage onto the forestomach of the treated rats and mice, which resulted in irritation, inflammation, and hyperplasia of the forestomach mucosa. Repeated dosing over a 2-year period exacerbated this irritation and resulted in the development of papillomas and carcinomas, which were confined to the forestomach. No other treatment-related tumors were observed in the animals. Forestomach tumors were observed at both doses tested (100 mg/kg bw and 200 mg/kg bw) in both male and female mice and rats. Humans do not have a forestomach and a human counterpart for the forestomach does not exist. The function of the rodent forestomach is to store and concentrate feed; therefore, high concentrations of ethyl acrylate were present in the forestomach over the duration of the 2-year study. This concentration effect precluded our determining a no-significant-effect-level for the occurrence of the forestomach tumors. Therefore, we cannot make an MOE comparison between a no-effect-dose level for significant incidences of tumors and the estimated dietary exposure of ethyl acrylate as a synthetic flavoring substance and adjuvant in food (1.5 μg ethyl acrylate/p/d, or 0.025 μg/kg bw/d) (Ref. 11).

The 2-year NTP studies were conducted at doses higher than the expected exposures for flavoring substances. In general, flavoring substances have significantly lower dietary exposures than the doses used in 2-year carcinogenicity studies. For example, the lowest dose of ethyl acrylate tested in the NTP studies was 100 mg/kg bw, or approximately 1.8×10^{6} times greater than the estimated dietary exposure from its use as a synthetic flavoring substance and adjuvant in food (Ref. 11).

Importantly, the NTP Board of Scientific Counselors Report on Carcinogens (RoC) Subcommittee concluded, based on the totality of the evidence, that ethyl acrylate should not be considered a human carcinogen (Ref. 12). We concur with the RoC and concluded that ethyl acrylate is a non-genotoxic rodent carcinogen with a carcinogenic effect limited to the rodent forestomach (a rodent-specific organ) due to chronic irritation. This MOA is not relevant to humans and, at the current intake level, there is no concern of carcinogenicity from the intake of ethyl acrylate intentionally added to food as a flavoring substance and adjuvant (Ref. 11).

C. Eugenyl Methyl Ether (Methyl Eugenol)

1. Exposure

Under § 172.515, methyl eugenol is permitted for use as a synthetic flavoring substance and adjuvant in foods in accordance with CGMP. FEMA estimated an annual production volume of 86 kg for methyl eugenol used as a flavoring substance and adjuvant in food based on information from the 2015 FEMA Poundage and Technical Effects Survey (Ref. 4). FEMA also estimated that 447,450 kg of methyl eugenol are available for consumption annually in the United States from its natural presence in foods (*e.g.,* basil) (Ref. 8). The 69th Joint Food and Agriculture Organization/World Health Organization (WHO) Expert Committee on Food Additives (JECFA) estimated an upper bound annual volume for methyl eugenol of 41,992 kg from its natural presence in herbs and spices. The most significant difference between the two estimates is that FEMA presumed a maximum content of methyl eugenol in basil of 4.1 percent, whereas JECFA presumed a maximum content of 0.118 percent (Refs. 5 and 8). Natural sources of basil have varying levels of methyl eugenol. It is unlikely, however, that most basil used in the United States would consistently have levels as high as 4.1 percent and, as such, JECFA's estimate of the amount of methyl eugenol from natural sources is suitably conservative and representative of probable consumption. Using the JECFA estimate, methyl eugenol is estimated to be present in the food supply from natural sources at a level 488 times greater than that from its use as a synthetic flavoring substance or adjuvant in food. Using the FEMA poundage data (assuming all reported poundage is for the synthetically prepared flavor) and a ''per-capita times ten'' approach, we estimated dietary exposure from methyl eugenol's use as a synthetic flavoring substance and adjuvant in food to be 7.4 μg/person/d, or 0.12 μg/kg bw/d for a 60 kg person (Refs. 6 and 13).

2. Toxicology Studies

FDA reviewed data from 2 NTP-sponsored 2-year carcinogenicity bioassays on methyl eugenol in F344/N rats and B6C3F1 mice. In these studies, methyl eugenol was administered to the animals at 0, 37, 75, or 150 mg/kg bw by gavage, 5 days per week, for 105 weeks. These test doses are 220,000 to 890,000 times higher than the estimated human dietary exposure from its use as a flavoring substance.

The NTP reported significantly increased incidence of liver tumors (combined adenomas or carcinomas), compared to the concurrent control groups, occurring in a dose-dependent manner across the treatment groups in both genders of rats and mice. Although the mortality in some treated groups was higher than 50 percent, tumors were the main cause of death in these groups. Further, most deaths occurred late in the studies. Another type of tumor, glandular stomach neuroendocrine neoplasms, were found in both genders of rats, but in only two male mice. The NTP, JECFA, and FDA do not consider these glandular stomach neuroendocrine neoplasms relevant to tumor formation in humans due to considerations of the mechanism of development of these neoplasms. Based on the overall data, we concluded that methyl eugenol, under the test conditions of the NTP 2-year carcinogenicity bioassays, induced cancer in rodents (Ref. 13).

Regarding the genotoxicity potential of methyl eugenol, results from several genotoxicity assays were negative; however, in testing systems that provided adequate metabolic activation, specifically 1′-hydroxylation and sulfonation, or those systems directly testing the 1′-hydroxyl metabolite of methyl eugenol, positive genotoxic effects were observed.

There is evidence showing that methyl eugenol treatment leads to the formation of covalent DNA adducts in vitro and in vivo. In cancer risk assessment, the formation of DNA adducts is a biomarker of exposure and suggestive of potential cancer risk. However, the observation of adducts itself should not be used to predict cancer. The relevance of DNA adducts for cancer assessment should be investigated in the context of other information, such as the quantity and persistency of the adducts. The level of methyl eugenol-specific adducts was shown to be dose-dependent in experimental animals. Therefore, since human dietary consumption of methyl eugenol from use as a synthetic flavoring substance in food is much lower than the dose received by the animals in the NTP studies, much lower levels of DNA adducts would be formed in humans compared to that in the test

animals. Additionally, there is evidence that the formation of these adducts requires specific metabolic activation of methyl eugenol (*i.e.,* hydroxylation followed by sulfonation, leading to the formation of 1′-sulfooexymethyleugenol, the ultimate metabolite that binds to DNA). Based on the physiology-based pharmacokinetic model of methyl eugenol, this pathway is not a major metabolic pathway in humans. Even after hydroxylation occurs, the hydroxylated intermediates can be eliminated by glucuronization and oxidation, so that only a trace amount of ingested methyl eugenol is metabolized to 1′-sulfooexymethyleugenol. In regard to the persistence of the adducts, there is evidence showing that in rats given methyl eugenol, the levels of methyl eugenol-specific adducts reduced after the treatment was stopped, suggesting that these adducts are repairable with considerable low persistency (Ref. 13).

There are only few studies measuring methyl eugenol-specific DNA adducts in humans. The adducts have been detected in 150 of 151 human liver biopsy samples and 10 of 10 tested human lung biopsy samples, indicating that the bioactive metabolites form in these subjects with typical dietary exposure, and are capable of binding with human DNA. However, these human data have limitations. We note that all but one the human tissue donors in these studies were patients with cancer or chronic liver diseases, who may have DNA-repair deficiencies, compromised detoxification pathways, or weakened control mechanisms that prevent the promotion of carcinogenesis from DNA adducts, whereas such control mechanisms would be expected to be operable in healthy humans. Therefore, it is difficult to extrapolate DNA-adduct results found in these unhealthy subpopulations to the general healthy population (Ref. 13).

3. Risk Characterization

In our evaluation of the carcinogenic potential of methyl eugenol in humans using a weight-of-evidence approach, we concluded that a genotoxic MOA is likely involved in the carcinogenicity observed in the NTP animal studies. This MOA involves formation of a bioactivated metabolite that forms DNA-adducts that leads to subsequent cancer initiation and development. Current scientific data on methyl eugenol suggest that bioactivation to the DNA-reactive metabolite, DNA adduct formation, and subsequent tumor formations are dose-dependent. Although methyl eugenol-specific DNA adducts have been identified in hospitalized subpopulations, there are no clinical or epidemiological data that provide concrete evidence that methyl eugenol is a human carcinogen. In the general healthy population, DNA-repair mechanisms and damage-response pathways may effectively prevent cancer development from an initiation event such as a DNA adduct. Therefore, the extremely low level of DNA adducts formed in humans from dietary exposure to methyl eugenol as an added food flavoring substance likely is below a threshold level necessary for subsequent cancer development. However, the current science is inadequate to quantitate the carcinogenic potential risk (if any) of methyl eugenol in humans (Ref. 13).

Carcinogenicity data on methyl eugenol also demonstrated that non-genotoxic MOAs for the observed tumors in animals, especially in mice, may be operating in conjunction with the genotoxic MOA. However, data for the non-genotoxic MOA are insufficient (Ref. 13).

The MOE for synthetic methyl eugenol as a flavoring substance and adjuvant in food is very large. Two dose-response assessments have been conducted to derive a point of departure for the liver carcinogenicity of methyl eugenol; both derived a lower bound benchmark dose ($BMDL_{10}$) based on data from the NTP bioassays. Using the more conservative $BMDL_{10}$ (7.7 mg/kg/d), and the estimated dietary exposure of methyl eugenol as a flavoring substance (0.12 μg/kg bw), the MOE is approximately 6.4×10^4. This MOE is based on an estimated dietary exposure that assumed 100 percent of the reported poundage data are exclusively synthetic methyl eugenol. Thus, the actual MOE for synthetically prepared methyl eugenol added to foods likely is larger. Although the carcinogenic potential cannot be definitively ruled out, this large MOE translates into a very small risk for carcinogenicity in humans and a low public health concern (Ref. 13).

As for methyl eugenol from natural sources, other components in such sources may modulate bioactivation and/or detoxification, so the toxicity data related to the use as a synthetic flavoring substance may not be relevant to its presence from natural sources. For example, a flavonoid derived from basil extracts, nevadensin, was found to be a sulfotransferase inhibitor, and it significantly reduced methyl eugenol-induced DNA adduct formation in F344/N rats (Ref. 13).

In conclusion, although there is evidence of genotoxicity for a bioactive metabolite of methyl eugenol, we concluded based on currently available scientific evidence that, despite the potential carcinogenic concern and lack of definitive quantitative cancer risk measurement, such risk in humans is mitigated by factors such as low exposure from its use as a flavoring substance, pharmacokinetics/metabolism, DNA-repair mechanisms, and the lack of clinical and epidemiological evidence of the carcinogenic effect in humans from oral exposure to methyl eugenol. Therefore, it is unlikely that consumption of methyl eugenol presents a risk to public health from use as a flavoring substance.

D. Myrcene

1. Exposure

Under § 172.515, myrcene is permitted for use as a synthetic flavoring substance and adjuvant in foods in accordance with CGMP. FEMA estimated an annual production volume of 860 kg for myrcene used as a flavoring substance and adjuvant in food based on information from the 2015 FEMA Poundage and Technical Effects Survey (Ref. 4). FEMA also estimated that 14,177,215 kg of myrcene are available for consumption annually in the United States from its natural presence in foods (*e.g.,* citrus juices) (Ref. 8). Thus, myrcene is present naturally in foods at a level 16,500 times greater than that from use as a flavoring substance and adjuvant. We estimated dietary exposure to myrcene as a synthetic flavoring substance using the FEMA poundage data (assuming all reported poundage is for the synthetically prepared flavoring substance) and a ''per-capita times ten'' approach to be 74 μg/person/d, or 1.23 μg/kg bw/d for a 60 kg person (Refs. 6 and 14).

2. Toxicology Studies

FDA reviewed data from 2 NTP-sponsored carcinogenicity bioassays on myrcene (β-myrcene) in F344/N rats and B6C3F1 mice. In the rat study, male and female rats were administered 0, 0.25, 0.50 or 1.0 g myrcene/kg bw by gavage, 5 days per week for up to 105 weeks. Results from the study showed increased incidence of renal tubule tumors in both sexes. All high dose (1 g/kg bw) male rats died prior to the end of the study due to renal toxicity. Incidence of nephrosis were significantly increased in all dosed male and female rats when compared to controls. Incidence of CPN were significantly increased in all myrcene-treated female rats but not male rats. There also was significantly increased incidence of nephrosis in all myrcene-

treated male and female rats compared to controls. However, incidence of mineralization of renal papilla also was significantly increased in all dosed male rats but not in female rats. Based on increased incidence of renal tubule neoplasms, NTP concluded that there was clear evidence of carcinogenic activity of myrcene in male F344/N rats and equivocal evidence of carcinogenic activity of myrcene in female rats (Ref. 14).

In the NTP mouse study, male and female mice were administered 0, 0.25, 0.50 or 1.0 g myrcene/kg bw by gavage, 5 days per week for up to 104 (females) and 105 weeks (males). Based on increased incidence of liver neoplasms, NTP concluded that there was clear evidence of carcinogenic activity of myrcene in male mice and equivocal evidence of carcinogenic activity of myrcene in female mice (Ref. 14).

Myrcene also was tested in several in vivo and in vitro genotoxicity assays sponsored by the NTP. The NTP concluded that myrcene was not genotoxic based on the negative Ames assays (*Salmonella typhimurium* (*S. typhimurium)* and *Escherichia coli (E. coli)*) and in vivo micronucleus assays in male and female B6C3F1 mice (Ref. 14).

Based on our evaluation of the data in the NTP 2-year myrcene studies, we concluded that, under the test conditions of the studies, myrcene induced renal tubular tumors in F344/N rats and hepatocellular tumors in B6C3F1 mice. We also concluded that myrcene is non-genotoxic (Ref. 14).

3. Risk Characterization

Our review of relevant scientific data and information suggests that myrcene may be operating through multiple MOAs to induce kidney and liver tumors in rodents. While, a definitive MOA for the induction of tumors by myrcene in rodents has not been established, because myrcene is not genotoxic, the induction of rodent tumors likely is occurring through an indirect non-DNA mediated MOA. One potential MOA in male and female rats is an unusual nephrosis. Another potential MOA, α2u-globulin (a low molecular-weight protein synthesized in the male rat liver) hyaline nephropathy, and renal tubular hyperplasia may collectively contribute to the development of renal tubule neoplasia in male rats following myrcene treatment (the α-2u-globulin nephropathy occurs only in male rats and is not operative in humans) (Ref. 14).

The B6C3F1 mouse strain used in the NTP-sponsored study with myrcene is known to have a high spontaneous background incidence of liver neoplasms and is a sensitive strain for the induction of liver tumors. The observed hepatocellular tumors in myrcene-dosed mice exceeded concurrent and historical controls. The MOA for the induction of hepatocellular tumors in myrcene dosed mice is not well understood. We are not aware of any robust mechanistic studies conducted to determine the MOA(s) responsible for the induction of hepatocellular neoplasia reported in myrcene-treated mice (Ref. 14).

In the NTP 2-year rat study, increased incidence of renal tubular tumors was observed in all doses of myrcene treated male rats. Because a no significant effect dose level was not observed in this study, we derived a $BMDL_{10}$ of 64,000 μg/kg bw/d based on the most sensitive endpoint, the combined renal tubular adenomas and carcinomas in male rats. Based on this $BMDL_{10}$ and the estimated dietary exposure to myrcene, we calculated an MOE of 5.2×10^4 (Ref. 14).

Using a weight-of-evidence analysis, we concluded that myrcene is unlikely to induce tumors in humans at its current exposure level when used as a synthetic flavoring substance and adjuvant in food based on the following: (1) Myrcene is non-genotoxic; (2) the MOA for kidney tubule tumors likely involves multiple MOAs that may include renal toxicity (nephrosis), α2u-globulin nephropathy (a mechanism not operative in humans), and hyperplasia in male rats. In female rats, nephrosis and hyperplasia are likely MOAs; (3) B6C3F1 mice are prone to spontaneous hepatocellular adenomas, carcinomas, and hepatoblastomas with high background tumor incidence, and (4) a MOE of 5.2×10^4 indicates a low risk concern from a public health point of view (Ref. 14).

E. Pulegone

1. Exposure

Under § 172.515, pulegone is permitted for use as a synthetic flavoring substance and adjuvant in foods in accordance with CGMP. FEMA estimated an annual production volume of 6 kg for pulegone used as a flavoring substance and adjuvant in food based on information from the 2015 FEMA Poundage and Technical Effects Survey (Ref. 4). FEMA estimated that 866 kg of pulegone are available for consumption annually in the U.S. from its natural presence in foods (*e.g.,* mint) (Ref. 8). Thus, pulegone is present from natural sources in the food supply at a level 144 times greater than that from use as a flavoring substance and adjuvant. Using FEMA poundage data (assuming all reported poundage is for the synthetically prepared flavor) and a ''per-capita times ten'' approach, we estimated dietary exposure from pulegone's use as a synthetic flavoring substance and adjuvant in food to be 0.5 μg/person/d, equivalent to 0.008 μg/kg bw/d for a 60 kg person (Refs. 6 and 15).

2. Toxicology studies

FDA reviewed data from 2 NTP-sponsored 2-year carcinogenicity bioassays on pulegone in F344/N rats and B6C3F1 mice. In the rat study, pulegone was administered by gavage at 0, 18.75, 37.5, or 75 mg pulegone/kg bw to male rats and 0, 37.5, 75, or 150 mg pulegone/kg bw to female rats 5 days a week for up to 104 weeks. The NTP reported that, in female rats, the primary tumors observed were urinary bladder papillomas and carcinomas. In male rats, no urinary bladder neoplasms were reported. Only transitional epithelial hyperplasia was observed in the pulegone-treated male rats at the lowest dose tested; no epithelial hyperplasia was observed in male rats at the mid or high doses. Pulegone administration also was associated with the occurrence of non-neoplastic lesions in the liver and nose of male and female rats, and in the forestomach of male rats. The NTP concluded that under the conditions of the experiment, there was no evidence of carcinogenic activity of pulegone in male F344/N rats and clear evidence of carcinogenic activity of pulegone in female F344/N rats based on increased incidence of urinary bladder neoplasms.

In the mouse study, pulegone was administered by gavage at 0, 37.5, 75 or 150 mg/kg bw 5 days a week for 105 weeks. The NTP reported that the primary tumors observed in the study were liver neoplasms in male and female mice. The NTP concluded that under the conditions of the experiment, there was clear evidence of carcinogenic activity of pulegone in male and female B6C3F1 mice.

Pulegone also was tested in several in vitro and in vivo genotoxicity assays. Overall, results were mostly negative. However, NTP concluded that pulegone is genotoxic based on a single positive result in the Ames Assay in *S. typhimurium* strain TA 98 and *E. coli* strain WP2 uvrA/PKM101 in the presence of metabolic activation.

Based on the findings of statistically significant increased incidence of urinary bladder papilloma and carcinoma in female F344/N rats and liver neoplasms in B6C3F1 male and female mice in the 2-year NTP

bioassays, we concluded that under the conditions of the 2 NTP studies, pulegone is a rodent carcinogen. Based on the totality of evidence from available genotoxicity studies, we also concluded that pulegone is likely non-genotoxic (Ref. 15).

3. Risk Characterization

According to NTP, the dose-related increase in the incidence of urinary bladder neoplasms in female rats was most likely related to the genotoxic activity of pulegone. However, we concluded that pulegone likely is non-genotoxic based on negative results in the majority of genotoxicity studies, along with a lack of available evidence reporting that DNA adducts related to pulegone treatments are formed. This suggests that the urinary bladder neoplasms observed in female F344/N rats treated with pulegone were caused by a non-genotoxic MOA.

Urinary bladder carcinogenesis likely is occurring in the rat through cytotoxicity as a result of chronic exposure to high concentrations of pulegone and its metabolites, followed by regenerative urothelial cell (a cell type that lines much of the urinary tract) proliferation, that further led to urothelial tumors (Ref. 15). Da Rocha et al. (2012) (Ref. 16) concluded that the carcinogenic MOA for urinary bladder tumors was not relevant to humans, based on the assertion that humans would never be exposed to pulegone long enough to develop hyperplasia because pulegone is highly volatile, noxious, and a nasal irritant, and that genotoxicity of pulegone has not been demonstrated.

The metabolic fate of pulegone has been studied extensively in rodents and is well understood. Pulegone is metabolized by multiple pathways in the rodent. One important intoxication (bioactivation) pathway involves the formation of menthofuran, the proximate toxic metabolite of pulegone, which is further oxidized in the liver to yield γ-ketoenal, 8-pulegone aldehyde. γ-ketoenal, 8-pulegone aldehyde is the ultimate toxic metabolite of pulegone in rodents. In general, at dose levels at or below 80 mg/kg bw, cellular concentrations of pulegone and its metabolites are effectively detoxified by conjugation with glutathione and glucuronic acid in rodents (Ref. 15).

In a human metabolism study in which pulegone was administered orally at doses of 0.5 to 1 mg/kg bw, 10-hydroxypulegone, not menthofuran, was the major metabolite. In this study, 10-hydroxypulegone was conjugated with glucuronic acid or sulfuric acid and detoxified. Based on the limited, available human metabolism data, the toxic metabolite of pulegone, menthofuran, is not formed at toxicologically significant levels in humans at the dietary exposure levels expected from the use of pulegone as a flavoring substance (Ref. 15).

Protein adduct formation and glutathione depletion have been postulated as potential MOAs of pulegone via menthofuran formation, which could cause cytotoxicity and chronic cell proliferation, and ultimately lead to liver neoplasms. In vivo and in vitro studies showed an association between hepatocellular damage caused by menthofuran and its metabolic activation to γ-ketoenal, 8-pulegone aldehyde and covalent binding to target organ proteins. Further, p-cresol, another pulegone metabolite produced in rodents given high doses of pulegone, depletes glutathione levels. This may lead to chronic regenerative cell proliferation, which may be related to the liver carcinogenicity observed in experimental B6C3F1 mice (Ref. 15)

Considering genotoxicity data, metabolism, MOA, and the sensitivity of the B6C3F1 strain to develop hepatocellular tumors, the mouse liver tumors likely are not relevant to humans at the current use level of pulegone as a synthetic flavoring substance and adjuvant in food (Ref. 15).

An MOE was calculated using the no-significant effect level at which no treatment-related tumors were reported in the 2-year NTP mouse study of pulegone in male rats (*i.e.,* no significant effect level (18.75 mg/kg bw, equivalent to 13.39 m g/kg bw/day)). This dose was selected because in female rats, combined incidence of urinary bladder papilloma or carcinoma (a rare tumor) was significantly increased at the high dose (150 mg/kg bw), exceeding historical control ranges for 2-year corn oil gavage studies and concurrent controls. In male mice, the incidence of hepatocellular adenomas in the 37.5 mg/kg bw dose group exceeded that in the concurrent and historical control ranges for 2-year corn oil gavage studies. In addition, in female mice, the incidence of hepatocellular adenomas in the 37.5 mg/kg bw dose group exceeded that in the concurrent and historical control ranges for 2-year corn oil gavage studies. Although not statistically significant, these occurrences may be biologically relevant, given that they exceeded those of the historical and concurrent controls, and there were statistically significant increases in some proliferative non-neoplastic lesions in the liver of male mice at this dose. The MOE based on the estimated dietary exposure of 0.5 μg/p/d (equivalent to 0.008 μg/kg bw/d) for pulegone as a flavoring substance in humans is 1.7×10^{6}, which indicates a very low potential carcinogenic risk for humans (Ref. 15).

Using a weight-of-evidence analysis considering that: (1) Pulegone is non-genotoxic; (2) pulegone has a potential cytotoxicity MOA; (3) available data suggest a dose-dependent, metabolic activation of pulegone in humans and rodents, an indication of a threshold effect; (4) there is a no-significant effect level below which no tumors were formed in the 2 NTP year studies; (5) dietary exposure from use as a synthetic flavoring substance added to food is low with a MOE of 1.7×10^{6}, we concluded that pulegone at its current use level as a synthetic flavoring substance and adjuvant in food, is unlikely to induce urinary bladder cancer and liver neoplasms in humans and does not pose a public health concern (Ref. 15).

F. Pyridine

1. Exposure

Under § 172.515, pyridine is permitted for use as a synthetic flavoring substance and adjuvant in foods in accordance with CGMP. FEMA estimated an annual production volume of 27 kg for pyridine used as a flavoring substance and adjuvant in food based on information from the 2015 FEMA Poundage and Technical Effects Survey (Ref. 4). FEMA also estimated that 73,861 kg of pyridine are available for consumption annually in the U.S. from its natural presence in foods (*e.g.,* coffee) (Ref. 8). Thus, pyridine is present from natural sources in the food supply at a level 2,736 times greater than that from use as a flavoring substance. Using the FEMA poundage data (assuming all reported poundage is for the synthetically prepared flavoring substance) and a ''per-capita times ten'' approach, we estimated dietary exposure from pyridine's use as a synthetic flavoring substance and adjuvant in food to be 2.3 μg/person/day, or 0.038 μg/kg bw/d for a 60 kg person (Refs. 6 and 17).

2. Toxicology studies

FDA reviewed data from 3 NTP-sponsored 2-year carcinogenicity bioassays on pyridine in F344/N rats, Wistar rats, and B6C3F1 mice. In the F344/N rat study, pyridine was administered in drinking water at 0, 100, 200, or 400 ppm (mg pyridine/kg drinking water) for 104 (males) and 105 (females) weeks. These dose levels were equivalent to doses of 7, 14, or 33 mg pyridine/kg bw/d, respectively. The

NTP reported a statistically significant increased incidence of renal tubule adenomas and renal tubule hyperplasia only in the high dose F344/N male rats. In addition, NTP reported significantly elevated incidences of MNCL in F344/N female rats at the 200 ppm and 400 ppm dose levels. MNCL is a commonly occurring spontaneous neoplasm in untreated, older F344/N rats. One study found that MNCL occurs in untreated, aged F344/N rats at a high and variable rate; that MNCL as a lesion is uncommon in most other rat strains; and the background incidence of MNCL in F344/N rats has increased significantly over the years (Ref. 17).

Recognizing the species specificity and high background levels of MNCL in F344/N rats, the NTP conducted a 2-year carcinogenicity study in male Wistar rats (a rat strain that does not have a high background of MNCL neoplasms). In this study, pyridine was administered in drinking water at 0, 100, 200, or 400 ppm for 104 weeks to male Wistar rats. These dose levels were equivalent to doses of 8, 17, or 36 mg pyridine/kg bw/d. The study showed no increased incidences of MNCL in any of the treatment groups. The NTP reported a statistically significant increased incidence of interstitial cell adenomas in the 400 ppm dose group. Observed increased incidence of interstitial cell adenomas of the testes in Wistar rats exposed to 400 ppm pyridine were marginally above the historical control range. A statistically significant increased incidence of kidney hyperplasia was observed at the 100 ppm dose group, along with increased incidence of kidney adenomas that were not statistically significant. There also was increased incidence of nephropathy in all pyridine-treated Wistar rats as well as in the controls (Ref. 17).

The NTP concluded that under the conditions of the 2-year F344/N rat oral drinking water study there was some evidence of carcinogenic activity of pyridine in male F344/N rats based on increased incidence of renal tubule neoplasms and equivocal evidence of carcinogenic activity of pyridine in female F344/N rats based on increased incidence of MNCL. The NTP considered the increased incidence of interstitial cell adenomas of the testes in the Wistar rat study to be equivocal evidence for carcinogenicity.

In the mouse study, pyridine was administered in drinking water to male B6C3F1 mice at concentrations of 0, 250, 500 or 1,000 ppm (doses equivalent to 35, 65, or 110 mg pyridine/kg bw/d, respectively) for 104 weeks. Groups of female B6C3F1 mice were administered pyridine at doses of 0, 125, 250 or 500 ppm (doses equivalent to 15, 35, or 70 mg pyridine/kg bw/d, respectively) in drinking water for 105 weeks. The NTP reported statistically significant increased incidence of hepatocellular carcinomas at all dose levels in the male and female mice and concluded that there was clear evidence of carcinogenic activity of pyridine in male and female B6C3F1 mice.

Pyridine also was tested in several in vitro and in vivo genotoxicity assays. The NTP concluded that pyridine was non-genotoxic. Based on evidence from available studies, we also concluded that pyridine is non-genotoxic (Ref. 17).

Under the test conditions of the 2-year NTP studies, we concluded that pyridine is a rodent carcinogen based on the observed pyridine-induced renal tumors in male F344/N rats and pyridine-induced liver tumors in B6C3F1 mice (Ref. 17).

3. Risk Characterization

Our review of relevant scientific data and information suggests that pyridine may be operating through multiple MOAs in its capability to induce kidney and liver tumors in rodents. A definitive MOA for the induction of tumors in rodents has not been established. However, because pyridine is not genotoxic, the induction of rodent tumors likely is occurring through an indirect non-DNA mediated MOA.

While NTP discounted the kidney neoplasms observed in the F344/N rats as being associated with an α2μ-globulin MOA, we concluded that pyridine may be a weak inducer of α2μ-globulin in F344/N male rats, based on the observation of statistically significant increased incidence in granular casts and hyaline degeneration in the 1000 ppm pyridine-treated rats along with higher staining intensity for α2μ-globulin in the kidney tissues from F344/N male rats exposed to 1000 ppm pyridine (Ref. 17).

Using a weight-of-evidence analysis, we concluded that pyridine is unlikely to induce tumors in humans at its current exposure level as a synthetic flavoring substance and adjuvant in foods based on the following: (1) Pyridine is non-genotoxic; (2) renal tubule neoplasms likely involve multiple MOAs that may include α2μ-globulin nephropathy and CPN, which are not relevant to humans. These postulated mechanisms, specifically α2μ-globulin nephropathy, are species- and sex-specific; (3) B6C3F1 mice are prone to spontaneous hepatocellular adenomas, carcinomas, and hepatoblastomas with high background incidence; and (4) active metabolites of pyridine differ across species and appear to be dose-dependent.

Further, there is a large MOE (3.7×10^5) between the estimated dietary exposure of pyridine as a synthetic flavoring substance intentionally added to food (0.038 μg/kg bw/d) compared to the highest dose of pyridine at which no treatment-related, statistically significant tumors were observed in the NTP studies (14,000 μg/kg bw/d (rats)) (Ref. 17). This large MOE further supports our conclusion that pyridine, when used as a flavoring substance, is unlikely to induce cancer in humans.

IV. Comments on the Notice of Petition

FDA received a number of comments in response to the notice of the petition. Most comments expressed general support for revocation of the regulations for the seven synthetic flavoring substances, without providing any additional information. Several comments expressed concern about the safety of these synthetic flavoring substances and asked that FDA ban them from foods; however, these comments did not provide any information to support their claim that the use of these additives is unsafe.

We summarize and respond to relevant portions of comments in this final rule. To make it easier to identify comments and FDA's responses to the comments, the word ''Comment'' will appear in parentheses before the description of the comment, and the word, ''Response'' will appear in parentheses before FDA's response. We have also numbered each comment to make it easier to identify a particular comment. The number assigned to each comment is for organizational purposes only and does not signify the comment's value, importance, or the order in which it was submitted.

A. Legal and Policy Issues

(Comment 1) One comment stated that these synthetic flavoring substances should not be revoked based on the Delaney Clause because ''. . . the Delaney Clause does not mandate that FDA flatly prohibit the use of the substance under any circumstances.'' The comment goes on to say that ''[t]he determination that a substance triggers the Delaney Clause is not the same as a determination that the substance is necessarily unsafe in food and that ''. . . an outright ban of any of the flavorings identified by the petitioner would require FDA to explain—in a rulemaking procedure—why the substance not only triggers the Delaney Clause but also why there are no circumstances under which the substance could otherwise be

considered safe for food use under specified conditions of use.'' Several comments stated that FDA should interpret the Delaney Clause in a manner similar to the approach used by FDA in its Constituents Policy (*i.e.,* FDA may determine that a food or color additive is ''safe'' if it contains a carcinogenic constituent but is not itself carcinogenic, see 47 FR 14464, April 2, 1982) for carcinogenic contaminants present in certain food additives.

(Response 1) We disagree. The language of the Delaney Clause is straightforward. For most food additives, FDA has discretion to review a number of factors to determine whether a food additive is safe (section 409(c)(5) of the FD&C Act). However, for food additives that are shown ''to induce cancer in man or animal,'' the Delaney Clause limits FDA's discretion and requires that FDA conclude that the food additive is not safe. Furthermore, as described above, courts have rejected the interpretations of the Delaney Clause suggested in the comments and have concluded that the Delaney Clause completely bans additives found to induce cancer in humans or animals. Thus, as a matter of law, FDA cannot find these synthetic flavoring substances to be safe.

(Comment 2) One comment said that the Delaney Clause applies only to food additives that induce cancer in test animals through a direct, genotoxic mechanism of carcinogenicity. The comment further stated that there are numerous examples of food ingredients that produce increased incidence of tumors in high dose rodent studies through a threshold secondary mechanism.

(Response 2) We disagree. The Delaney Clause does not differentiate between non-genotoxic and genotoxic carcinogens. Nor does it permit FDA to find a food additive safe for human consumption if the food additive has induced cancer in animal. The Delaney Clause is a strict legal standard that precludes FDA from using its expertise to evaluate a substance under its intended condition of use and its risk to public health.

(Comment 3) One comment stated that the petitioners call for a radical departure from long-established regulatory framework of FDA conducting its own comprehensive review of the scientific data that bear on the safety assessment. Further, the comment stated that the petitioners' approach is contrary to the statute and cannot be implemented without amendment of the law. The comment stated that if, contrary to the statute and long precedent, FDA believes it should delegate its authority to external organizations, it must consider such policy changes through notice-and-comment rulemaking. The comment also stated that while an FAP is the correct vehicle to appeal/amend a food additive regulation, it is not appropriate for FDA to consider, much less implement, ''radical new interpretations'' of the statute through a food additive petition.

(Response 3) FDA disagrees with this comment. FDA's regulations permit petitioning the agency to revoke a food additive regulation. In response to such a petition, FDA conducts its own review of scientific data that bear on the petition. FDA then takes action based on its own evaluation of the data in accordance with the FD&C Act and its implementing regulations. The Delaney Clause is in the FD&C Act and this rulemaking is in accordance with the language of the law and case law interpreting it.

B. Scientific Issues

(Comment 4) One comment included a lengthy discussion of relevant carcinogenicity and genotoxicity studies for each of the additives that are the subject of the petition and argued that none of the synthetic flavoring substances are direct carcinogens. Instead, the comment contended that tumors observed in the NTP studies were the result of secondary mechanisms and not direct, genotoxic effects.

(Response 4) Our review included an evaluation of all relevant carcinogenicity studies for each of the additives. The toxicology memoranda for each of the six synthetic flavoring substances and section III include a full discussion of the relevant studies and address each scientific point outlined in the comment.

(Comment 5) Several comments believed that FDA should not base its safety decision solely on classifications by NTP or IARC and that any decision should be based on an independent FDA assessment. Another comment stated that FDA must consider new studies since the NTP and IARC reviews were completed.

(Response 5) FDA agrees with the comments and has conducted its own evaluation of available relevant data to reach its conclusions on each synthetic flavoring substance, and did not solely rely on NTP and IARC classifications as the basis for our decision.

(Comment 6) One comment noted that IARC is not subject to U.S. law and relying on its conclusions is inappropriate and legally vulnerable for FDA. Another comment noted that IARC warns that its monographs are not the basis for governmental action, pointing out that the preamble to IARC monographs is clear that they are a starting place for government agencies, not a basis for regulation.

(Response 6) We agree that relying solely on IARC conclusions would not be appropriate in making a decision on the petition, and, as such, FDA has conducted its own comprehensive carcinogenicity evaluation of the flavoring substances using all available relevant information.

(Comment 7) One comment stated that the international health and safety community has moved away from rote reliance on IARC and NTP. The comment further said that the NTP and IARC classifications do not make those substances carcinogens under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard and that these reviews are not viewed as weight-of-evidence conclusions by international authorities; therefore, it would be incongruent for FDA to view them in this manner. The comment cited an action in 2012, where OSHA reversed three decades of automatically requiring employers to classify a substance as a carcinogen based on an NTP or IARC classification.

(Response 7) FDA acknowledges that the NTP studies are designed for hazard identification and not for assessing the human carcinogenicity risk of chemicals under specific conditions of use; however, FDA must evaluate the results from the NTP studies and other available information within the context of the FD&C Act, including the Delaney Clause.

(Comment 8) Some comments expressed concern that compliance and enforcement of a zero tolerance policy is not possible and that a zero tolerance policy is not feasible for naturally occurring substances.

(Response 8) FDA has not addressed the request for FDA to establish zero tolerances for the food additives that are the subject of this petition because such a request is not the proper subject of a food additive petition, and because the petitioners have indicated that they are abandoning that claim.

(Comment 9) Several comments expressed concern over the use of these substances in food packaging applications.

(Response 9) Benzophenone is the only synthetic flavoring substance that is the subject of this petition that also is approved as a food additive for use in food packaging (§ 177.2600(c)(4)(iv) diphenylketone). As explained earlier, we are repealing the regulation for the

use of this substance as a plasticizer in food packaging based on results of the NTP studies.

(Comment 10) One comment said that the use of ethyl acrylate should not be revoked, because the studies used to assess carcinogenicity were not appropriate and noted that NTP has removed it from its list of human carcinogens.

(Response 10) FDA acknowledges that NTP has removed ethyl acrylate from its list of human carcinogens; however, the flavoring substance induced cancer in animals under the conditions of the 2-year NTP carcinogenicity studies. As such, we are required under the Delaney Clause to deem the additive to be unsafe as a matter of law. (See Section III.B, Ethyl Acrylate.)

(Comment 11) One comment submitted on behalf of several industry interests supported removal of styrene from § 172.515 based solely on abandonment and subsequently submitted a petition (FAP 6A4817 (81 FR 38984)) providing data to support their claim.

(Response 11) FDA is responding to this comment as part of our response to FAP 6A4817, which is published elsewhere in this edition of the **FEDERAL REGISTER**.

(Comment 12) One comment stated that the petitioner should follow the National Environmental Policy Act and submit an environmental assessment but did not provide any supporting data.

(Response 12) FDA disagrees. As discussed in section VII, we have determined that the action we are taking on the petition does not have a significant effect on the human environment and neither an environmental assessment nor an environmental impact statement is required.

V. Conclusion

Upon review of the available information, we have determined that the information provided in the petition and other publicly available relevant data demonstrate that synthetic benzophenone, ethyl acrylate, methyl eugenol, myrcene, pulegone, and pyridine have been shown to cause cancer in animals. Despite FDA's scientific analysis and determination that these substances do not pose a risk to public health under the conditions of their intended use, under the Delaney Clause this finding of carcinogenicity renders the additives ''unsafe'' as a matter of law and FDA is compelled to amend the authorizations for these substances as food additives to no longer provide for the use of these synthetic flavoring substances. Additionally, because of evidence that benzophenone causes cancer in animals, FDA also is amending the food additive regulations to no longer provide for the use of benzophenone as a plasticizer in rubber articles intended for repeated use in contact with food. Therefore, we are amending parts 172 and 177 as set forth in this document. Upon the publication, these food additive uses are no longer authorized.

FDA realizes that the food industry needs sufficient time to identify suitable replacement ingredients for these synthetic flavoring substances and reformulate products and for these products to work their way through distribution. Therefore, FDA intends to not enforce applicable requirements of the final rule with regard to food products manufactured (domestically and internationally) prior to October 9, 2020 that contain one or more of these six synthetic flavoring substances, to provide an opportunity for companies to reformulate products prior to enforcing the requirements of this final rule.

VI. Public Disclosure

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), we will delete from the documents any materials that are not available for public disclosure.

VII. Analysis of Environmental Impacts

As stated in the January 4, 2016, **Federal Register** notice of petition for FAP 5A4810 (81 FR 42), the petitioners claimed a categorical exclusion from preparing an environmental assessment or environmental impact statement under 21 CFR 25.32(m). We have determined that the categorical exclusion under § 25.32(m) for actions to prohibit or otherwise restrict or reduce the use of a substance in food, food packaging, or cosmetics is warranted. We have determined under § 25.32(m) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Objections

If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.*

X. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**), under Docket No. FDA–2015–F–4317, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday, they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on display; they are available as published articles and books.

1. Bevan, R.J. (2017). ''Threshold and Non-Threshold Chemical Carcinogens: A survey of the Present Regulatory Landscape.'' *Regulatory Toxicology and Pharmacology,* 88, 291–302.
2. JECFA (2006). ''The Formulation of Advice on Compounds That are Both Genotoxic and Carcinogenic.'' WHO Food Additives Series No. 55, Annex 4.
3. Barlow, S. et al. (2006). ''Risk Assessment of Substances That are Both Genotoxic and Carcinogenic: Report of an International Conference organized by EFSA and WHO with Support of ILSI Europe.'' *Food and Chemical Toxicology,* 44, 1636–1650.
4. Flavor and Extract Manufacturers Association Transmittal Letter to Szabina Stice (FDA, CFSAN), April 27, 2018.*
5. FDA Memorandum from D. Folmer, CFSAN Chemistry Review Group,

Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 24, 2016.*
6. FDA Memorandum from D. Folmer, CFSAN Chemistry Review Group, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 20, 2018.*
7. Food and Agriculture Organization of the United Nations and the World Health Organization. Principles and Methods for the Risk Assessment of Chemicals in Food. 2009. Available at *http://www.inchem.org/documents/ehc/ehc/ehc240_index.htm.* (Last accessed September 12, 2017.)
8. Flavor and Extract Manufacturers Association Letter to Judith Kidwell (FDA, CFSAN), April 11, 2016.*
9. FDA Memorandum from S. Thurmond, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 21, 2018. *
10. Boobis, A.R. et al. (2006). ''IPCS Framework for Analyzing the Relevance of a Cancer Mode of Action for Humans.'' *Critical Reviews in Toxicology,* 36:10, 781–792.
11. FDA Memorandum from S. Thurmond, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 21, 2018.*
12. National Toxicology Program. Report on Carcinogens Background Document for Ethyl Acrylate. December 2–3, 1998.
13. FDA Memorandum from J. Zang, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 21, 2018.*
14. FDA Memorandum from A. Khan, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 21, 2018.*
15. FDA Memorandum from N. Anyangwe, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 21, 2018.*
16. Da Rocha, M.S., Dodmane, P.R., Arnold, L.L., et al. (2012). ''Mode of Action of Pulegone on the Urinary Bladder of F344 Rats.'' *Toxicological Sciences,* kfs035.
17. FDA Memorandum from T. Tyler, CFSAN Toxicology Team, Division of Petition Review, to J. Kidwell, Regulatory Group I, Division of Petition Review, June 27, 2018.*

List of Subjects

21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 172 and 177 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

§ 172.515 [Amended]

■ 2. Amend § 172.515(b) by removing the entries for ''benzophenone; diphenylketone,'' ''ethyl acrylate,'' ''eugenyl methyl ether; 4-allylveratrole; methyl eugenol,'' ''myrcene; 7-methyl-3-methylene-1,6-octadiene,'' ''pulegone; *p*-menth-4(8)-en-3-one,'' and ''pyridine.''

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

■ 3. The authority citation for part 177 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

§ 177.2600 [Amended]

■ 4. In § 177.2600(c)(4)(iv), remove the entry for ''diphenyl ketone.''

Dated: October 2, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21807 Filed 10–5–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0682]

RIN 1625–AA00

Safety Zone; North Hero-Grand Isle Bridge, Lake Champlain, VT

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters within a 50 yard radius from the center of the North Hero-Grand Isle Bridge, on Lake Champlain, VT. The safety zone is necessary to protect personnel, vessels, and marine environment from potential hazards created by the demolition, subsequent removal, and replacement of the North Hero-Grand Isle Bridge. When enforced, this regulation prohibits entry of vessels or persons into the safety zone unless authorized by the Captain of the Port Northern New England or a designated representative.

DATES: This rule is effective without actual notice from October 9, 2018 through September 1, 2022. For purposes of enforcement, actual notice will be used from October 1, 2018 through October 9, 2018.

Comments and related material must be received by the Coast Guard on or before January 7, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0682 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule. You may submit comments identified by docket number USCG–2018–0575 using the Federal eRulemaking Portal at *http://www.regulations.gov. See the* ''*Public Participation and Request for Comments*'' *portion for further instructions on submitting comments.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Matthew Odom, Waterways Management Division, U.S. Coast Guard Sector Northern New England, telephone 207–347–5015, email *Matthew.T.Odom@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On July 5, 2018, Sector Northern New England was made aware by Cianbro Corporation through email, of the North Hero-Grand Isle Bridge replacement project, which will be replacing Bridge 8 on US 2 over Lake Champlain which connects the towns of North Hero Island and Grand Isle in Vermont. The COTP Northern New England has determined that the potential hazards associated with the bridge replacement project will be a safety concern for anyone within the work area.

The Coast Guard is publishing this rule to be effective, and enforceable, through September 1, 2022, in case the project is delayed due to unforeseen circumstances. During this project, removal and replacement of the bridge will take place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the

COTP or a designated representative. The safety zone will be enforced during different periods during bridge deconstruction, temporary bridge installation, and construction of the permanent structure. Unless there is an emergency, the Coast Guard will issue a Broadcast Notice to Mariners via marine channel 16 (VHF–FM) 24 hours in advance of any period of enforcement. If the project is completed prior to September 1, 2022, enforcement of the safety zone will be suspended and notice given via Broadcast Notice to Mariners, Local Notice to Mariners, or both.

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The late finalization of project details did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the construction work is set to begin. It would be impracticable and contrary to the public interest to delay promulgating this rule as it is necessary to establish this safety zone on October 1, 2018 to protect the safety of the waterway users, construction crew, and other personnel associated with the replacement project. A delay of the replacement project to accommodate a full notice and comment period would delay necessary operations, result in increased costs, and delay the date when the replacement project is expected to be completed and reopen the bridge for normal operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. For reasons stated in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest because timely action is needed to respond to the potential safety hazards associated with the construction project.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Northern New England has determined that potential hazards associated with the bridge replacement project scheduled from October 1, 2018 through September 1, 2022 will be a safety concern for anyone within the work zone. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters of Lake Champlain while the bridge replacement project is completed.

IV. Discussion of Comments, Changes, and the Rule

This rule establishes a safety zone from October 1, 2018 through September 1, 2022. The safety zone will cover all navigable waters from surface to bottom within a 50 yard radius from the center of the Route 2 North Hero-Grand Isle Bridge. When enforced, no vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners via marine Channel 16 (VHF–FM) in advance of any enforcement.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive order 13771.

The Coast Guard has determined that this rulemaking is not a significant regulatory action for the following reasons: (1) The safety zone only impacts a small designated area of Lake Champlain, (2) the safety zone will only be enforced when work equipment is present in the navigable channel as a result of bridge removal and replacement operations or if there is an emergency, (3) persons or vessels desiring to enter the safety zone may do so with permission from the COTP Northern New England or a designated representative. The Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners via marine channel 16 (VHF–FM).

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A., this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone that will prohibit entry within a 50 yard radius from the center of the North Hero-Grand Isle Bridge during its removal and replacement. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01.

A preliminary Record of Environmental Consideration for Categorically Excluded Actions is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this temporary interim rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this TIR as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0682 to read as follows:

§ 165.T01–0682 Safety Zone—North Hero-Grand Isle Bridge, Lake Champlain, VT.

(a) *Location.* The following area is a safety zone: All navigable waters on Lake Champlain, within a 50-yard radius of the center of the North Hero-Grand Isle Bridge that spans Lake Champlain between North Hero Island and Grand Isle in position 44°45′57″ N, 073°17′20″ W (NAD 83).

(b) *Definitions.* As used in this section:

(1) *Designated representative* means any Coast Guard commissioned, warrant, petty officer, or any federal, state, or local law enforcement officer who has been designated by the Captain of the Port (COTP) Northern New England, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels* means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Northern New England to enforce this section.

(c) *Effective and enforcement period.* This section is enforceable 24 hours a day from October 1, 2018, through September 1, 2022. When enforced as deemed necessary by the Captain of the Port (COTP) Northern New England, vessels and persons will be prohibited from entering this safety zone unless granted permission from the COTP Northern New England or the COTP's designated representative.

(d) *Regulations.* When this safety zone is enforced, the following regulations, along with those contained in § 165.23 apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port (COTP) Northern New England or the COTP's designated representative. However, any vessel that is granted permission to enter or remain in this zone by the COTP or the COTP's designated representative must proceed through the zone with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise required by the Navigation Rules.

(2) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's designated representative. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the safety zone shall exit the zone when directed by the COTP or the COTP's designated representative.

(3) To obtain permission required by this regulation, individuals may reach the COTP or the COTP's designated representative via Channel 16 (VHF–FM) or (207)741–5465 (Sector Northern New England Command Center).

(e) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232.

(f) *Notification.* Coast Guard Sector Northern New England will give notice through the Local Notice to Mariners and Broadcast Notice to Mariners for the purpose of enforcement of temporary safety zone.

Dated: September 17, 2018.

B.G. LeFebvre,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2018–21867 Filed 10–5–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AO65

Loan Guaranty: Ability-to-Repay Standards and Qualified Mortgage Definition Under the Truth-in-Lending Act

AGENCY: Department of Veterans Affairs.

ACTION: Agency determination; status of interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) published an interim final rule on May 9, 2014, implementing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). This document informs the public that VA will not be publishing a final rule to adopt the provisions in the interim final rule that published on May 9, 2014. However, VA will be publishing a separate regulation in the near future that will supersede the provisions in the interim final rule that published on May 9, 2014.

DATES: This document is effective October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Greg Nelms, Assistant Director (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8795. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 9, 2014, VA published in the **Federal Register** (79 FR 26620) its interim final rule (IFR) pursuant to the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010). Among other things, the Dodd-Frank Act established many reforms to Federal oversight of residential mortgage lending, including a requirement that lenders be able to demonstrate that, at the time a mortgage loan is made to a borrower, the borrower is reasonably able to repay the mortgage loan. Public Law 111–203, sec. 1411 (codified at 15 U.S.C. 1639c). Such mortgage loans are referred to generally as qualified mortgages (QMs).

VA specified in the IFR that almost all VA loans meeting VA's underwriting standards would be considered safe harbor QMs. 79 FR 26622–26623. The loans that would not be considered safe harbor QMs would be certain Interest Rate Reduction Refinance Loans (IRRRLs), specifically those meeting the requirements for guaranty but failing to meet IRRRL-specific seasoning and recoupment requirements for safe harbor protections. While these types of IRRRLs could still be deemed QMs, they would receive the designation of rebuttable presumption QM rather than safe harbor QM. 79 FR 26624. VA also specified income verification requirements for IRRRLs. Id.

VA received a total of 22 comments on the IFR. Most of the commenters were industry participants in the VA Home Loan program or representatives of the lending community. A few individuals also commented. No comments were received from veterans' service organizations or veterans expressing concerns about the use of their VA home loan benefit. Most commenters sought clarification of the IFR. Several commenters were fully supportive of the rule. VA appreciates the comments received on the IFR.

On May 24, 2018, section 309 of Economic Growth, Regulatory Relief, and Consumer Protection Act (Pub. L. 115–174) superseded certain elements of the IFR. The law's seasoning and recoupment requirements for IRRRLs effectively eliminated the category of rebuttable presumption QM. Section 309 also imposed other requirements that, while not in conflict with the IFR, were not contemplated at the time of the IFR's publication. Consequently, rather than finalizing the IFR, VA will need to revise its qualified mortgage criteria in a future rulemaking. VA will in its future rulemaking take into account the spirit of the comments submitted in response to the IFR. Until such future rulemaking is final, the IFR remains in effect. To the extent any provision of the IFR conflicts with or is superseded by Public Law 115–174, Public Law 115–174 controls.

On May 25, 2018, VA released a policy guidance update in Circular 26–18–13 to inform program participants about the impact of Public Law 115–174 on VA home loan financing. Loan applications taken on or after May 25, 2018 must meet the requirements of the new law to be eligible for guaranty by the VA.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on September 26, 2018, for publication.

Dated: September 26, 2018.

Jeffrey M. Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2018–21370 Filed 10–4–18; 4:15 pm]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2018–0549, FRL–9984–58–Region 2]

Approval and Promulgation of Implementation Plans; New Jersey; Elements for the 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving several State Implementation Plan (SIP) revisions submitted by the State of New Jersey for purposes of implementing Reasonably Available Control Technology (RACT) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The EPA is approving New Jersey's SIP revision for the control and prohibition of air pollution by volatile organic compounds (VOCs) and control and prohibition of air pollution by oxides of nitrogen (NO_X), as they are intended to satisfy certain control technique guideline (CTG) and NO_X RACT categories. The EPA is approving New Jersey's certification that there are no sources within the State for the following CTGs: Manufacture of Vegetable Oils; Manufacture of Pneumatic Rubber Tires; Aerospace Coatings; Shipbuilding and Ship Repair Operations; Metal Furniture Coatings; Large Appliance Coatings; and Auto and Light Duty Truck Original Equipment Manufacturer Assembly Coatings. In addition, the EPA is approving New Jersey's RACT SIP as it applies to non-CTG major sources of VOCs and major sources of NO_X. The EPA is also approving the portions of the comprehensive SIP revision submitted by New Jersey that certify that the State has satisfied the requirements for an enhanced motor vehicle Inspection and Maintenance program, certify that the State has satisfied the requirements for an emission statement program, certify that the State has satisfied the requirements for an ozone specific provisions nonattainment new source review program, and show the State has adopted all NO_X RACT and VOC RACT, as it pertains to the 2008 8-hour ozone NAAQS. These actions are being taken in accordance with the requirements of the Clean Air Act.

DATES: This final rule is effective on November 8, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2018–0549. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Omar Hammad, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212) 637–3347, or by email at *Hammad.Omar@epa.gov.*

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

Table of Contents

I. What is the background for this action?
II. What comments were received in response to the EPA's proposed action?
III. What action is the EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is the background for this action?

On July 31, 2018 (83 FR 36816), the EPA published a Notice of Proposed Rulemaking that proposed to approve the State of New Jersey's State Implementation Plan (SIP) submittals,[1] for purposes of implementing Reasonably Available Control Technology (RACT)[2] for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). The EPA proposed to approve New Jersey's June 11, 2015 SIP submittal, showing that the State meets the RACT requirements for the 2008 8-hour ozone standards. The EPA proposed to approve New Jersey's June 11, 2015 RACT SIP as it applies to non-CTG major sources of VOCs and to major sources of NO_X. The EPA also proposed to approve the December 14, 2017 submittal, which established new limits on NO_X emissions from existing simple cycle combustion turbines combusting natural gas and compressing gaseous fuel at major NO_X facilities and stationary reciprocating engines combusting natural gas and compressing gaseous fuel at major NO_X facilities and indicated that the RACT requirements for the 2008 ozone NAAQS have been fulfilled for sources subject to the following four CTGs: Industrial Cleaning Solvents (EPA 453/R–06–001); Paper, Film, and Foil Coatings (EPA 453/R–07–003); Miscellaneous Metal and Plastic Parts Coatings (EPA 453/R–08–003); and Fiberglass Boat Manufacturing Materials (EPA–453/R–08–004). The EPA also proposed to approve the portion of New Jersey's SIP revision submitted on January 2, 2018, that certifies the State has satisfied the requirements for a motor vehicle enhanced inspection and maintenance (I/M) program, an emission statement program, an ozone specific provisions nonattainment new source review (NNSR) program, and that the State has adopted all applicable NO_X RACT and VOC RACT.

The specific details of New Jersey's SIP submittals and the rationale for the EPA's approval action are explained in the EPA's proposed rulemaking and are not restated in this final action. For this detailed information, the reader is referred to the EPA's July 31, 2018 proposed rulemaking (83 FR 36816).

II. What comments were received in response to the EPA's proposed action?

In response to the EPA's July 31, 2018 proposed rulemaking on New Jersey's SIP submittals, the EPA received four comments during the 30-day public comment period. The specific comments may be viewed under Docket ID Number EPA–R02–OAR–2018–0549 on the *https://www.regulations.gov* website.

After reviewing the comments, EPA has determined that the comments are outside the scope of our proposed action or fail to identify any material issue necessitating a response. The comments do not raise issues germane to EPA's proposed action. They do not explain (or provide a legal basis for) how the proposed action should differ in any way and make no specific mention of the proposed action. Since the comments are not relevant to the specific action EPA proposed, EPA will not provide a specific response to the comments.

III. What action is the EPA taking?

The EPA has evaluated New Jersey's SIP submittals and has determined that they are consistent with the EPA's guidance documents as well as the EPA's CTG and Alternative Control Technique (ACT) documents and are fully approvable as SIP-strengthening measures for New Jersey's ozone SIP. Specifically, EPA is approving New Jersey's state-wide RACT submittal dated June 11, 2015 and the State's December 14, 2017 SIP revision rule, which include a declaration that the following source-specific categories either do not exist in this State, or fall below significant emission unit applicability thresholds in the CTGs: (1) Manufacture of Vegetable Oils; (2) Manufacture of Pneumatic Rubber Tires; (3) Aerospace Coatings; (4) Shipbuilding and Ship Repair Operations; (5) Metal

[1] New Jersey's SIP submittals included; submittals with cover letters dated June 11, 2015; November 30, 2017; and December 22, 2017.

[2] The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

Furniture Coatings; (6) Large Appliance Coatings; and (7) Auto and Light Duty Truck Original Equipment Manufacturer (OEM) Assembly Coatings. The submittals also include amendments to N.J.A.C. 7:27, Subchapter 16, ''Control and Prohibition of Air Pollution by Volatile Organic Compounds,'' Subchapter 19, ''Control and Prohibition of Air Pollution by Oxides of Nitrogen,'' [3] for purposes of satisfying the 2008 8-hour ozone standard RACT requirements, NOx RACT for major sources, Non-CTG VOC RACT for major sources, all VOC CTG RACT sources and relevant OTR RACT requirements. The EPA is also approving portions of New Jersey's January 2, 2018 SIP revision [4] that certifies the State has satisfied the requirements for an enhanced motor vehicle I/M program, an emission statement program, and ozone specific provisions NNSR program.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of revisions to portions of Title 7, Chapter 27: Subchapter 16 and 19 of the New Jersey Administrative Code that implement New Jersey's Control and Prohibition of Air Pollution by Volatile Organic Compounds and Control and Prohibition of Air Pollution from Oxides of Nitrogen, as described in section III of this preamble.

EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[5]

[3] State Effective dates for both rules is November 6, 2017 (49 N.J.R. 3518).

[4] The EPA will act on the remainder of New Jersey's January 2, 2018 SIP revision submittal, including the attainment demonstrations, Reasonable Further Progress (RFP) requirements and other portions at a later date.

[5] 62 FR 27968 (May 22, 1997).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: September 11, 2018.

Peter D. Lopez,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart FF—New Jersey

■ 2. In § 52.1570:

■ a. The table in paragraph (c) is amended by revising the entries for ''Title 7, Chapter 27, Subchapter 16'' and ''Title 7, Chapter 27, Subchapter 19''; and

■ b. The table in paragraph (e) is amended by adding the entries for ''2008 8-hour Ozone RACT analysis'', ''2008 8-hour Ozone Nonattainment New Source Review Requirements'', ''2008 8-hour Ozone Nonattainment Emission Statement Program Certification'' and ''2008 8-hour Ozone Nonattainment Motor Vehicle Enhanced Inspection and Maintenance (I/M) Program Certification'' at the end of the table.

The revisions and additions read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW JERSEY STATE REGULATIONS AND LAWS

State citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
Title 7, Chapter 27, Subchapter 16.	Control and Prohibition of Air Pollution by Volatile Organic Compounds.	November 6, 2017 ..	October 9, 2018, Insert **Federal Register** citation].	
*	*	*	*	*
Title 7, Chapter 27, Subchapter 19.	Control and Prohibition of Air Pollution from Oxides of Nitrogen.	November 6, 2017 ..	October 9, 2018, Insert **Federal Register** citation].	Subchapter 19 is approved into the SIP except for the following provisions: (1) Phased compliance plan through repowering in Section 19.21 that allows for implementation beyond May 1, 1999; and (2) phased compliance plan through the use of innovative control technology in Section 19.23 that allows for implementation beyond May 1, 1999.
*	*	*	*	*

* * * * *

(e) * * *

EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
*	*	*	*	*
2008 8-hour Ozone RACT Analysis ...	Statewide	June 11, 2015 and January 2, 2018.	October 9, 2018, Insert **Federal Register** citation].	• Full approval. Includes CTGs, NO_X RACT for major sources and non-CTG RACT sources.
2008 8-hour Ozone Specific Nonattainment New Source Review Requirements.	Statewide	January 2, 2018	October 9, 2018, Insert **Federal Register** citation].	• Full approval.
2008 8-hour Ozone Nonattainment Emission Statement Program Certification.	Statewide	January 2, 2018	October 9, 2018, Insert **Federal Register** citation].	• Full approval.
2008 8-hour Ozone Nonattainment Motor Vehicle Enhanced Inspection and Maintenance (I/M) Program Certification.	Statewide	January 2, 2018	October 9, 2018, Insert **Federal Register** citation].	• Full approval.

[FR Doc. 2018–21465 Filed 10–5–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160808696–7010–02]

RIN 0648–BI50

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017–2018 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to management measures in commercial groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan, is intended to allow commercial fishing vessels to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206–526–4491 or email: *karen.palmigiano@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two year periods or biennium. NMFS published the final rule to implement harvest specifications and management measures for the 2017–18 biennium for most species managed under the PCGFMP on February 7, 2017 (82 FR 9634). In general, the management measures are set at the start of the biennial specifications cycle to help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

At its September 7–12, 2018, meeting the Council recommended four adjustments to current management measures, including: (1) Increasing the sablefish trip limits for the limited entry fixed gear (LEFG) fishery north of 36° North latitude (N lat.) and the open access fixed gear (OAFG) fishery north and south of 36° N lat.; (2) increasing the bocaccio trip limits for the LEFG fishery between 40°10′ N lat. and 34°27′ N lat.; (3) transferring Pacific Ocean perch (POP) and darkblotched rockfish from the incidental open access (IOA) set-asides to the set asides for unforeseen catch events for those species; and (4) increasing the incidental halibut retention allowance in the LEFG sablefish primary fishery.

Sablefish Trip Limit Increases for the LEFG and OA Sablefish DTL Fisheries

At the September 2018 Council meeting, the Groundfish Management Team (GMT) received requests from industry members and members of the Groundfish Advisory Subpanel (GAP) to examine the potential to increase sablefish trips limits for the LEFG fishery north of 36° N lat. and the OAFG fisheries north and south of 36° N lat. The intent of increasing trip limits would be to increase harvest opportunities for the LEFG and OAFG sablefish fisheries. To evaluate potential increases to sablefish trip limits, the GMT made model-based landings projections under current regulations and a range of potential sablefish trip limits, include the limits ultimately recommended by the Council, for the LEFG and OAFG sablefish fisheries through the remainder of the year. Table 1 shows the projected sablefish landings, the sablefish allocations, and the projected attainment percentage by fishery under both the current trip limits and the Council's recommended trip limits. These projections were based on the most recent catch information available through August 2018.

TABLE 1—PROJECTED LANDINGS OF SABLEFISH, SABLEFISH ALLOCATION, AND PROJECTED PERCENTAGE OF SABLEFISH ATTAINED THROUGH THE END OF THE YEAR BY TRIP LIMIT AND FISHERY

Fishery	Trip limits	Projected landings (round weight) (mt)	Allocation (mt)	Projected percentage attained
LEFG North of 36° N lat	Current: 1,100 lb/week, not to exceed 3,300 lb/2 month	174.9–201.9	269	65–75.1
	Recommended: 1,400 lb/week, not to exceed 4,200 lb/2 month.	193.6–224.3		71.9–83.4
OAFG North of 36° N lat	Current: 300 lb/day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/2 months.	341–347.5	444	76.8–78.3
	Recommended: 300 lb/day, or 1 landing per week of up to 1,400 lb, not to exceed 2,800 lbs/2 months.	417.2–427.7		94–96.3
OAFG South of 36° N lat	Current: 300 lb/day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/2 months.	44.7	325	13.7
	Recommended: 300 lb/day, or 1 landing per week of up to 1,600 lb, not to exceed 4,800 lbs/2 months.	44.7		13.7

As shown in Table 1, under the current trip limits, the model predicts catches of sablefish will be at or below 75 percent for each fishery except the OAFG fishery north of 36° N lat. which may attain just over 78 percent of their sablefish allocation by the end of the year. Under the Council's recommended trip limits, sablefish attainment is

projected to increase in the LEFG and OAFG fisheries north of 36° N lat. Due to a lack of participation and variance in trip limits in the OA fishery south of 36° N lat., the model was unable to detect any estimated change in attainment for this fishery even with the proposed increase in trip limits.

Projections for the LEFG sablefish fishery south of 36° N lat. remain low and within the levels anticipated in the 2017–18 harvest specifications and management measures. Industry did not request changes to sablefish trip limits for the LEFG fishery south of 36° N lat. Therefore, NMFS and the Council did not consider trip limit changes for this fishery.

Trip limit increases for sablefish are intended to increase attainment of the non-trawl HG. The proposed trip limit increases do not change projected impacts to co-occurring overfished species compared to the impacts anticipated in the 2017–18 harvest specifications because the projected impacts to those species assume that the entire sablefish ACL is harvested. Therefore, the Council recommended and NMFS is implementing, by modifying Table 2 (North) to part 660, subpart E, trip limit changes for the LEFG sablefish fishery north of 36° N lat. to increase the limits from ''1,100 lb (499 kg) per week, not to exceed 3,300 lb (1,497 kg) per two months'' to ''1,400 lb (635 kg) per week, not to exceed 4,200 lb (1,905 kg) per two months'' for period 4 (September and October) and period 5 (November and December).

The Council also recommended and NMFS is implementing, by modifying Table 3 (North and South) to part 660, subpart F, trip limits for sablefish in the OA sablefish DTL fishery north and south of 36° N lat. The trip limits for sablefish in the OA sablefish DTL fishery north of 36° N lat. will increase from ''300 lb (136 kg) per day, or one landing per week of up to 1,000 lb (454 kg), not to exceed 2,000 lb (907 kg) per two months'' to ''300 lb (136 kg) per day, or one landing per week of up to 1,400 lb (590 kg), not to exceed 2,800 lb (1,179 kg) per two months'' for period 4 (September and October) and period 5 (November and December). The trip limits for sablefish in the OA sablefish DTL fishery south of 36° N lat. will increase from ''300 lb (136 kg) per day, or one landing per week of up to 1,600 lb (454 kg), not to exceed 3,200 lb (907 kg) per two months'' to ''300 lb (136 kg) per day, or one landing per week of up to 1,600 lb (590 kg), not to exceed 4,800 lb (1,179 kg) per two months'' for period 4 (September and October) and period 5 (November and December).

LEFG Bocaccio Between 40°10′ N Lat. and 34°27′ N Lat. Trip Limits

Bocaccio is managed with stock-specific harvest specifications south of 40°10′ N lat., but is managed within the Minor Shelf Rockfish complex north of 40°10′ N lat. NMFS declared bocaccio overfished in 1999, and implemented a rebuilding plan for the stock in 2000. Although NMFS declared bocaccio officially rebuilt in 2017, the current harvest specifications are based on the current rebuilding plan. At the September 2018 Council meeting, members of the GAP notified the Council and the GMT of increased interactions with bocaccio for vessels targeting chilipepper rockfish. The low trip limits for bocaccio between 40°10′ N lat. and 34°27′ N lat., coupled with these increased interactions, results in higher bocaccio discard rates in the LEFG fishery. Because the most recent bocaccio attainment estimates suggest that around 4 percent or 16.7 mt of bocaccio will be attained out of the 442.3 mt non-trawl allocation, the GAP requested the GMT examine potential increases to the bocaccio trip limits for the LEFG fishery only between 40°10′ N lat and 34°27′ N lat. The GMT did not receive a request to examine trip limit increases for bocaccio south of 34°27′ N lat.

To assist the Council in evaluating potential trip limit increases for bocaccio between 40°10′ N lat. and 34°27′ N lat., the GMT analyzed projected attainment under the current status quo regulations and under the proposed trip limit changes. In 2016, when the bocaccio trip limits were established for the 2017–18 harvest specifications, few data points existed to provide projected annual catch data under the current trip limits. Based on that limited data, boccacio catch in the non-trawl commercial fishery between 40°10′ N lat. and 34°27′ N lat. was expected to be around 0.3 mt of the 442.3 mt non-trawl allocation. The GMT updated the expected attainment under the current status quo trip limits and examined potential impacts under alternative trip limits with additional catch data from the 2016 and 2017 fishing years.

Based on updated model projections under the current status quo trip limit of 1,000 lb (454 kg) per two months, total coastwide bocaccio catch in the LEFG and OA fisheries is expected to be 16.7 mt, or four percent of the non-trawl HG and two percent of the coastwide ACL. Increasing the trip limits to 1,500 lb (680 kg) per two months for the reminder of the fishing year for vessels fishing in the LEFG fishery in the area between 40°10′ N lat. and 34°27′ N lat., which would align them with the trip limits already in place south of 34°27′ N lat., is expected to increase total mortality by less than 0.1 mt, and the overall total mortality of bocaccio would be expected to remain at around four percent of the non-trawl HG and two percent of the coastwide ACL.

Trip limit increases for bocaccio are intended to allow for increased attainment of the non-trawl allocation (442.3 mt), while also providing the incentive for vessels targeting co-occurring species, such as chilipepper rockfish, to land their bocaccio catch instead of discarding. Therefore, the Council recommended and NMFS is implementing, by modifying Table 2 (South) to part 660, Subpart E, an increase to the bocaccio trip limits for the LEFG fishery between 40°10′ N lat. and 34°27′ N lat. The trip limits for bocaccio in this area will increase from ''1,000 lb (464 kg) per per two months'' to ''1,500 lb (680 kg) per two months'' for period 4 (September and October) and period 5 (November and December).

Transferring POP and Darkblotched Rockfish Set-Asides From IOA and Research Set-Asides to the Additional Buffer

NMFS sets ACLs for non-whiting groundfish stocks and stock complexes as part of biennial harvest specifications and management measures. Deductions are made ''off-the-top'' from the ACL to ''set-aside'' an amount for various sources of mortality, including non-groundfish fisheries that catch groundfish incidentally, also called IOA fisheries, as well as for research, tribal, recreational catch, and for some species, an amount for unforeseen catch events. NMFS allocates the remainder, the fishery's commercial HG, among the trawl and non-trawl sectors of the groundfish fishery. For some species, sector-specific set-asides are then deducted from the trawl allocation. For example, the trawl HGs for both darkblotched rockfish and POP are divided up into an allocation for the Shorebased individual fishing quota (IFQ) program and a set-asides for the motherships (MS) and catcher/processors (C/P) which make up the at-sea sector.

On January 8, 2018, NMFS published a final rule to implement Amendment 21–3. Amendment 21–3 recharacterized the portions of the trawl HG of darkblotched rockfish and POP for the MS and CP vessels that make up the at sea whiting sector from allocations, which are hard caps requiring the relevant sector to close upon reaching them, to sector specific set-asides (83 FR

757, January 8, 2018). This change was necessary because both those species had been declared rebuilt the previous year and the allocations were constraining the at-sea sector's ability to harvest whiting. Regulations implementing Amendment 21–3 do not require that a sector be closed upon reaching its set-aside, but do require NMFS to close either or both the MS and C/P sectors if the species-specific set-aside amounts for darkblotched rockfish or POP for that sector, plus a reserve or ''buffer'' for unforeseen catch events, is projected to be exceeded.

At the September 2018 Council meeting, representatives from the Midwater Trawlers Cooperative, Pacific Whiting Conservation Cooperative, United Catcher Boats, and Whiting Mothership Cooperative requested that the Council recommend NMFS take inseason action to transfer the unused portion of the IOA and research off the top deductions for darkblotched rockfish and POP to the buffer for those species. The intent of the request is to create a larger buffer for unforeseen catch events. If the at-sea sectors, or any sector, were to exceed their sector specific set-aside for darkblotched rockfish or POP, there would be a larger amount available in the buffer to harvest before NMFS would be required to close either the MS or C/P sectors.

To evaluate this request, the GMT considered the historical maximum amount of POP and darkblotched rockfish taken in the IOA and research fisheries over the past several years, the current amounts of POP and darkblotched rockfish taken in the IOA and research fisheries in 2018, the at-sea sector's total catch to date, and the projected catch for the remainder of the year for IOA, research, and the at-sea sector.

Currently, the IOA fishery has a 10 mt set-aside for POP, and research has a 5.2 mt set-aside. Harvest of POP in the IOA fishery mainly occurs in the pink shrimp fishery. Between 2007 and 2017 total harvest of POP in the IOA fishery was below 0.6 mt annually, except for an uncharacteristically high mortality in 2014 of 10 mt. Overall harvest of rockfish in the pink shrimp trawl fishery fell significantly in 2015 and remained low in subsequent years. Total harvest of POP in the IOA fishery between 2015 and 2017 was less than 0.7 mt. Total mortality of POP in the research sector between 2007 and 2017 never exceeded 3.10 mt annually. However, NOAA's Northwest Fisheries Science Center (NWFSC) notified the GMT that 2018 research catch is likely to be much higher after a single haul on a research cruise took 3.4 mt of POP.

The current set-aside for darkblotched rockfish in the IOA fishery is 24.5 mt, and the current research set-aside is 2.5 mt. Similar to POP, the majority of darkblotched rockfish catch in the IOA fishery is harvested in the pink shrimp fishery. Since 2015, no more than 6.82 mt of darkblotched rockfish was taken annually in the IOA fishery. Between 2007 and 2015, the darkblotched rockfish harvest in the IOA fishery exceeded 50 percent of the set-aside five times, most recently in 2014 when catch actually exceeded the set-aside for the first time. However, this was deemed to be an anomalous year due to a substantial recruitment event. The research fishery is expected to take their current set-aside amount this year, with 1.53 mt of darkblotched rockfish already caught in 2018.

Finally, the GMT conducted a analysis using data through September 5, 2018, to examine the potential attainment of the at-sea sector's darkblotched rockfish and POP set-asides, using the current bycatch rates and assuming full attainment of the at-sea sector's whiting allocation. Based on this analysis, the GMT determined that it is likely the C/P will exceed their POP set-aside (65.9-percent chance), and the MS will most likely not exceed their POP set-aside (8.5-percent chance). When considering both sectors, the combined at-sea sector has a 39-percent chance of exceeding their combined POP set-asides (15.2 mt) and a less than one percent chance of exceeding the set-aside value and the ''buffer'' set-aside (46.7 mt).

For darkblotched rockfish, the GMT's bootstrap analysis indicated that the C/P have a 40-percent chance of exceeding their darkblotched set-aside (16.7 mt) and the MS have a 32-percent chance of exceeding their darkblotched set-aside (11.8 mt). When considering both sectors, the combined at-sector has a 43-percent chance of exceeding their combined darkblotched rockfish set-asides (28.5 mt). None of the model runs showed that the at-sea sector, when considered as a group, would exceed their darkblotched set-aside and the ''buffer'' set-aside (78.5 mt).

While the current risk of the at-sea sector exceeding the POP or darkblotched rockfish set-aside and the amount set-aside for unforeseen catch events for those species is low to negligible at this time, the Council considered the risk to the at-sea sector and the other groundfish fisheries if no action was taken. If the Council chose not to take action now, because the automatic closure authority still exists in regulations, if the MS or C/P sectors exceeded their darkblotched or POP set-aside and the amount set-aside for unforeseen catch events for that species, the NMFS would have to close the sectors even though there may be unused POP or darkblotched rockfish in the IOA fisheries. The projected economic impacts associated with a closure of the at-sea sector in November, when closure would most likely occur, are losses of approximately 200 jobs and $14 million in personal income. Additionally, in order to reopen the Pacific whiting fishery, the Council would need to convene an emergency Council meeting or wait until the Council makes a decision at a subsequent meeting. Finally, because moving any portion of the IOA set-aside into the amount set aside for unforeseen catch events would make that amount available for all sectors, the GMT did not determine that this request would pose a risk to other groundfish fisheries.

Therefore, the Council recommended and NMFS is implementing a redistribution of 9.7 mt of POP and 17.7 mt of darkblotched rockfish, from the ''off-the-top'' deductions for the IOA fishery made at the start of the 2017–18 biennium, to the buffer for unforeseen catch events. This redistribution creates a larger buffer for all sectors, and reduces the risk of a closure of one or both the MS and C/P sectors. Transfer of POP and darkblotched rockfish to the set-aside for unforeseen catch events is not expected to result in greater impacts to either species, or other overfished species, than what was originally projected through the 2017–18 harvest specifications.

Incidental Halibut Retention in the Limited Entry Fixed Gear Sablefish Primary Fishery

Under the authority of the Northern Pacific Halibut Act of 1982, the Council developed a Catch Sharing Plan for the International Pacific Halibut Commission Regulatory Area 2A. The Catch Sharing Plan allocates the Area 2A annual total allowable catch (TAC) among fisheries off Washington, Oregon, and California. Pacific halibut is generally a prohibited species for vessels fishing in Pacific coast groundfish fisheries, unless explicitly allowed in groundfish regulations and authorized by the Pacific halibut Catch Sharing Plan. In years when the Pacific halibut TAC is above 900,000 lb (408 mt), the Catch Sharing Plan allows the limited entry fixed gear sablefish primary fishery an incidental retention limit for Pacific halibut north of Point Chehalis, WA (46°53.30′ N. lat.). On March 24, 2018, NMFS implemented a 2018 Area 2A TAC of 1,190,000 lb (540 mt) (83 FR 13080, March 26, 2018).

Consistent with the provisions of the Catch Sharing Plan, the limited entry fixed gear sablefish primary fishery north of Pt. Chelais, WA has an incidental total catch limit of 50,000 lb (22.7 mt) for 2018.

Current regulations at § 660.231(b)(3)(iv) provide for halibut retention starting on April 1 with a landing ratio of 160 lb (64 kg) dressed weight of halibut, for every 1,000 lb (454 kg) dressed weight of sablefish landed, and up to an additional 2 halibut in excess of this ratio. These limits, recommended by the Council at its March 2018 meeting, and subsequently implemented by NMFS on April 13, 2018 (83 FR 16005), were intended to allow the total catch of Pacific halibut to approach, but not exceed, the 2018 allocation for the sablefish primary fishery north of Pt. Chelais, WA (50,000 lb or 22.7 mt) and provide greater opportunity for industry to attain a higher percentage of the sablefish primary fishery allocation. However, the GMT notified the Council, after a request from the GAP to increase the incidental halibut allowance in the sablefish primary fishery, that incidental catch of halibut through September 11, 2018, was 22,464 lb, or less than 50 percent of the 50,000 lb allocation, with little more than a month left in the season that ends on October 31, 2018.

Therefore, in order to allow increased incidental halibut retention in the sablefish primary fishery, the Council recommended and NMFS is implementing revised incidental halibut retention regulations at § 660.231(b)(3)(iv) to increase the catch ratio to ''200 lb dressed weight of halibut for every 1,000 lb dressed weight of sablefish landed and up to 2 additional halibut in excess of the 200 lb per 1,000 lb ratio per landing.'' This modest increase in the allowed halibut retention ratio over the last few weeks of the fishery is unlikely to cause catch to exceed the incidental halibut allocation for the sablefish primary fishery north of Pt. Chehalis, WA, but will provide some additional benefit to fishery participants.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection by contacting Karen Palmigiano in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT**, above), or view at the NMFS West Coast Groundfish website: *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html.*

NMFS finds good cause to waive prior public notice and comment on these adjustments to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Each of the adjustments to commercial groundfish management measures in this rule would create more harvest opportunity and allow fishermen to better attain species that are currently under attained without causing any additional impacts on the fishery. Delaying the implementation of these adjustments would reduce or eliminate the benefits that they would provide to the industry. For example, the sablefish primary season ends on October 31, 2018; therefore, any delay in implementing the increased halibut retention limit would further limit the time available for fishery participants to benefit from these changes. Allowing for a public comment period would likely result in little if any time before the end of the season. Vessels fishing in the LEFG or OAFG fisheries for sablefish would ultimately only fish under the increased trip limits for 1.5 periods (October-December). Providing for a public comment period and issuing a final rule would likely delay implementation of the increased limits to the point where only minimal fishing opportunity remained due to the approaching end of the year and winter weather conditions. Delaying implementation further risks the at-sea sector reaching and/or exceeding their set-aside for darkblotched rockfish and POP further increasing fears about potential closures and the expenses associated with such closures. In summary, providing a comment period for this action would significantly limit the benefits to the fishery, and would hamper the achievement of optimum yield from the affected fisheries. For the same reasons, the NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective October 9, 2018. The adjustments to management measures in this document affect commercial fisheries in Washington, Oregon and California. These adjustments were requested by members of industry during the Council's September 7–11, 2018 meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through a notice and comment rulemaking for 2017–18 (82 FR 9634). Therefore, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: October 3, 2018.

Margo B. Schulze-Haugen,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. Table 2a to part 660, subpart C, is revised to read as follows:

TABLE 2a TO PART 660, SUBPART C—2018, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES

[Weights in metric tons]

Species	Area	OFL	ABC	ACL [a]	Fishery HG [b]
BOCACCIO [c]	S of 40°10′ N lat.	2,013	1,924	741	726
COWCOD [d]	S of 40°10′ N lat.	71	64	10	8
DARKBLOTCHED ROCKFISH [e]	Coastwide	683	653	653	576
PACIFIC OCEAN PERCH [f]	N of 40°10′ N lat.	984	941	281	232
YELLOWEYE ROCKFISH [g]	Coastwide	58	48	20	14

TABLE 2a TO PART 660, SUBPART C—2018, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES—Continued

[Weights in metric tons]

Species	Area	OFL	ABC	ACL [a]	Fishery HG [b]
Arrowtooth flounder [h]	Coastwide	16,498	13,743	13,743	11,645
Big skate [i]	Coastwide	541	494	494	437
Black rockfish [j]	California (South of 42° N lat.)	347	332	332	331
Black rockfish [k]	Oregon (Between 46°16′ N lat. and 42° N lat.).	570	520	520	519
Black rockfish [l]	Washington (N of 46°16′ N lat.)	315	301	301	283
Blackgill rockfish [m]	S of 40°10′ N lat.	NA	NA	NA	NA
Cabezon [n]	California (South of 42° N lat.)	156	149	149	149
Cabezon [o]	Oregon (Between 46°16′ N lat. and 42° N lat.).	49	47	47	47
California scorpionfish [p]	S of 34°27′ N lat.	278	254	150	148
Canary rockfish [q]	Coastwide	1,596	1,526	1,526	1,467
Chilipepper [r]	S of 40°10′ N lat.	2,623	2,507	2,507	2,461
Dover sole [s]	Coastwide	90,282	86,310	50,000	48,406
English sole [t]	Coastwide	8,255	7,537	7,537	7,324
Lingcod [u]	N of 40°10′ N lat.	3,310	3,110	3,110	2,832
Lingcod [v]	S of 40°10′ N lat.	1,373	1,144	1,144	1,135
Longnose skate [w]	Coastwide	2,526	2,415	2,000	1,853
Longspine thornyhead [x]	Coastwide	4,339	3,614	NA	NA
Longspine thornyhead	N of 34°27′ N lat.	NA	NA	2,747	2,700
Longspine thornyhead	S of 34°27′ N lat.	NA	NA	867	864
Pacific cod [y]	Coastwide	3,200	2,221	1,600	1,091
Pacific whiting [z]	Coastwide	725,984	[z]	[z]	362,682
Petrale sole [aa]	Coastwide	3,152	3,013	3,013	2,772
Sablefish	Coastwide	8,329	7,604	NA	NA
Sablefish [bb]	N of 36° N lat.	NA	NA	5,475	See Table 2c
Sablefish [cc]	S of 36° N lat.	NA	NA	1,944	1,939
Shortbelly rockfish [dd]	Coastwide	6,950	5,789	500	489
Shortspine thornyhead [ee]	Coastwide	3,116	2,596	NA	NA
Shortspine thornyhead	N of 34°27′ N lat.	NA	NA	1,698	1,639
Shortspine thornyhead	S of 34°27′ N lat.	NA	NA	898	856
Spiny dogfish [ff]	Coastwide	2,500	2,083	2,083	1,745
Splitnose rockfish [gg]	S of 40°10′ N lat.	1,842	1,761	1,761	1,750
Starry flounder [hh]	Coastwide	1,847	1,282	1,282	1,272
Widow rockfish [ii]	Coastwide	13,237	12,655	12,655	12,437
Yellowtail rockfish [jj]	N of 40°10′ N lat.	6,574	6,002	6,002	4,972
Minor Nearshore Rockfish [kk]	N of 40°10′ N lat.	119	105	105	103
Minor Shelf Rockfish [ll]	N of 40°10′ N lat.	2,302	2,048	2,047	1,963
Minor Slope Rockfish [mm]	N of 40°10′ N lat.	1,896	1,754	1,754	1,689
Minor Nearshore Rockfish [nn]	S of 40°10′ N lat.	1,344	1,180	1,179	1,175
Minor Shelf Rockfish [oo]	S of 40°10′ N lat.	1,918	1,625	1,624	1,577
Minor Slope Rockfish [pp]	S of 40°10′ N lat.	829	719	709	689
Other Flatfish [qq]	Coastwide	9,690	7,281	7,281	7,077
Other Fish [rr]	Coastwide	501	441	441	441

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery harvest guidelines means the harvest guideline or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Bocaccio. A stock assessment was conducted in 2015 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10′ N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. A historical catch distribution of approximately 7.4 percent was used to apportion the assessed stock to the area north of 40°10′ N lat. The bocaccio stock was estimated to be at 36.8 percent of its unfished biomass in 2015. The OFL of 2,013 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,924 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The 741 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 15.4 mt is deducted from the ACL to accommodate the incidental open access fishery (0.8 mt), EFP catch (10 mt) and research catch (4.6 mt), resulting in a fishery HG of 725.6 mt. The California recreational fishery has an HG of 305.5 mt.

[d] Cowcod. A stock assessment for the Conception Area was conducted in 2013 and the stock was estimated to be at 33.9 percent of its unfished biomass in 2013. The Conception Area OFL of 59 mt is projected in the 2013 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The OFL contribution of 12 mt for the unassessed portion of the stock in the Monterey area is based on depletion-based stock reduction analysis. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10′ N lat. OFL of 71 mt. The ABC for the area south of 40°10′ N lat. is 64 mt. The assessed portion of the stock in the Conception Area is considered category 2, with a Conception area contribution to the ABC of 54 mt, which is an 8.7 percent reduction from the Conception area OFL ($\sigma = 0.72/P^* = 0.45$). The unassessed portion of the stock in the Monterey area is considered a category 3 stock, with a contribution to the ABC of 10 mt, which is a 16.6 percent reduction from the Monterey area OFL ($\sigma = 1.44/P^* = 0.45$). A single ACL of 10 mt is being set for both areas combined. The ACL of 10 mt is based on the rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 82.7 percent, which is equivalent to an exploitation rate (catch over age 11+ biomass) of 0.007. 2 mt is deducted from the ACL to accommodate the incidental open access fishery (less than 0.1 mt), EFP fishing (less than 0.1 mt) and research activity (2 mt), resulting in a fishery HG of 8 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 4 mt is being set for both areas combined.

[e] Darkblotched rockfish. A 2015 stock assessment estimated the stock to be at 39 percent of its unfished biomass in 2015. The OFL of 683 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 653 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC, as the stock is projected to be above its target biomass of $B_{40\%}$ in 2017. 77.3 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (24.5 mt), EFP catch (0.1 mt), research catch (2.5 mt) and an additional deduction for unforeseen catch events (50 mt), resulting in a fishery HG of 575.8 mt. On October 9, 2018 17.7 mt were redistributed from the incidental open access fishery to the deduction for unforeseen catch events. This redistribution results in an incidental open access amount of 6.8 mt and a deduction for unforeseen catch events of 67.7 mt.

[f] Pacific ocean perch. A stock assessment was conducted in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 984 mt for the area north of 40°10′ N lat. is based on an updated catch-only projection of the 2011 rebuilding analysis using an $F_{50\%}$ F_{MSY} proxy. The ABC of 941 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) as it is a category 1 stock. The ACL is based on the current rebuilding plan with a target year to rebuild of 2051 and a constant catch amount of 281 mt in 2017 and 2018, followed in 2019 and beyond by ACLs based on an SPR harvest rate of 86.4 percent. 49.4 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (10 mt), research catch (5.2 mt) and an additional deduction for unforeseen catch events (25 mt), resulting in a fishery HG of 231.6 mt. On October 9, 2018 9.7 mt were redistributed from the incidental open access fishery to the deduction for unforeseen catch events. This redistribution results in an incidental open access amount of 0.3 mt and a deduction for unforeseen catch events of 34.7 mt.

[g] Yelloweye rockfish. A stock assessment update was conducted in 2011. The stock was estimated to be at 21.4 percent of its unfished biomass in 2011. The 58 mt coastwide OFL is based on a catch-only update of the 2011 stock assessment, assuming actual catches since 2011 and using an F_{MSY} proxy of $F_{50\%}$. The ABC of 48 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) as it is a category 2 stock. The 20 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 6 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.4 mt), EFP catch (less than 0.1 mt) and research catch (3.27 mt) resulting in a fishery HG of 14 mt. Recreational HGs are: 3.3 mt (Washington); 3 mt (Oregon); and 3.9 mt (California).

[h] Arrowtooth flounder. The arrowtooth flounder stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 16,498 mt is derived from a catch-only update of the 2007 assessment assuming actual catches since 2007 and using an $F_{30\%}$ F_{MSY} proxy. The ABC of 13,743 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 2,098.1 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (40.8 mt), and research catch (16.4 mt), resulting in a fishery HG of 11,644.9 mt.

[i] Big skate. The OFL of 541 mt is based on an estimate of trawl survey biomass and natural mortality. The ABC of 494 mt is a 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) as it is a category 2 stock. The ACL is set equal to the ABC. 57.4 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), the incidental open access fishery (38.4 mt), and research catch (4 mt), resulting in a fishery HG of 436.6 mt.

[j] Black rockfish (California). A 2015 stock assessment estimated the stock to be at 33 percent of its unfished biomass in 2015. The OFL of 347 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 332 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is projected to be above its target biomass of $B_{40\%}$ in 2018. 1 mt is deducted from the ACL for EFP catch, resulting in a fishery HG of 331 mt.

[k] Black rockfish (Oregon). A 2015 stock assessment estimated the stock to be at 60 percent of its unfished biomass in 2015. The OFL of 570 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 520 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 0.6 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 519.4 mt.

[l] Black rockfish (Washington). A 2015 stock assessment estimated the stock to be at 43 percent of its unfished biomass in 2015. The OFL of 315 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 301 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 18 mt is deducted from the ACL to accommodate the Tribal fishery, resulting in a fishery HG of 283 mt.

[m] Blackgill rockfish. Blackgill rockfish contributes to the harvest specifications for the Minor Slope Rockfish South complex. See footnote pp.

[n] Cabezon (California). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off California was estimated to be at 48.3 percent of its unfished biomass in 2009. The OFL of 156 mt is calculated using an F_{MSY} proxy of $F_{50\%}$. The ABC of 149 mt is based on a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 0.3 mt is deducted from the ACL to accommodate the incidental open access fishery (0.3 mt), resulting in a fishery HG of 148.7 mt.

[o] Cabezon (Oregon). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt is calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt is based on a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 species. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is also equal to the ACL of 47 mt.

[p] California scorpionfish. A California scorpionfish assessment was conducted in 2005 and was estimated to be at 79.8 percent of its unfished biomass in 2005. The OFL of 278 mt is based on projections from a catch-only update of the 2005 assessment assuming actual catches since 2005 and using an F_{MSY} harvest rate proxy of $F_{50\%}$. The ABC of 254 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) because it is a category 2 stock. The ACL is set at a constant catch amount of 150 mt. 2.2 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (0.2 mt), resulting in a fishery HG of 147.8 mt. An ACT of 111 mt is established.

[q] Canary rockfish. A stock assessment was conducted in 2015 and the stock was estimated to be at 55.5 percent of its unfished biomass coastwide in 2015. The coastwide OFL of 1,596 mt is projected in the 2015 assessment using an F_{MSY} harvest rate proxy of $F_{50\%}$. The ABC of 1,526 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) as it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 59.4 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.2 mt), EFP catch (1 mt) and research catch (7.2 mt) resulting in a fishery HG of 1,466.6 mt. Recreational HGs are: 50 mt (Washington); 75 mt (Oregon); and 135 mt (California).

[r] Chilipepper. A coastwide update assessment of the chilipepper stock was conducted in 2015 and estimated to be at 64 percent of its unfished biomass in 2015. Chilipepper are managed with stock-specific harvest specifications south of 40°10′N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. Projected OFLs are stratified north and south of 40°10′ N lat. based on the average historical assessed area catch, which is 93 percent for the area south of 40°10′ N lat. and 7 percent for the area north of 40°10′ N lat. The OFL of 2,623 mt for the area south of 40°10′ N lat. is projected in the 2015 assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,507 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 45.9 mt is deducted from the ACL to accommodate the incidental open access fishery (5 mt), EFP fishing (30 mt), and research catch (10.9 mt), resulting in a fishery HG of 2,461.1 mt.

[s] Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 90,282 mt is based on an updated catch-only projection from the 2011 stock assessment assuming actual catches since 2011 and using an F_{MSY} proxy of $F_{30\%}$. The ABC of 86,310 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. However, the ACL of 50,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,593.7 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (54.8 mt), and research catch (41.9 mt), resulting in a fishery HG of 48,406.3 mt.

[t] English sole. A 2013 stock assessment was conducted, which estimated the stock to be at 88 percent of its unfished biomass in 2013. The OFL of 8,255 mt is projected in the 2013 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 7,537 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 212.8 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (7 mt) and research catch (5.8 mt), resulting in a fishery HG of 7,324.2 mt.

[u] Lingcod north. The 2009 lingcod assessment modeled two populations north and south of the California-Oregon border (42° N lat.). Both populations were healthy with stock depletion estimated at 62 and 74 percent for the north and south, respectively in 2009.The OFL is based on an updated catch-only projection from the 2009 assessment assuming actual catches since 2009 and using an F_{MSY} proxy of $F_{45\%}$. The OFL is apportioned by adding 48 percent of the OFL from California, resulting in an OFL of 3,310 mt for the area north of 40°10′ N lat. The ABC of 3,110 mt is based on a 4.4 percent reduction ($\sigma = 0.36/P^* = 0.45$) from the OFL contribution for the area north of 42° N lat. because it is a category 1 stock, and an 8.7 percent reduction ($\sigma = 0.72/P^* = 0.45$) from the OFL contribution for the area between 42° N lat. and 40°10′ N lat. because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 278.2 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt), EFP catch (0.5 mt) and research catch (11.7 mt), resulting in a fishery HG of 2,831.8 mt.

[v] Lingcod south. The 2009 lingcod assessment modeled two populations north and south of the California-Oregon border (42° N lat.). Both populations were healthy with stock depletion estimated at 62 and 74 percent for the north and south, respectively in 2009. The OFL is based on an updated catch-only projection of the 2009 stock assessment assuming actual catches since 2009 and using an F_{MSY} proxy of $F_{45\%}$. The OFL is apportioned by subtracting 48 percent of the California OFL, resulting in an OFL of 1,373 mt for the area south of 40°10′ N lat. The ABC of 1,144 mt is based on a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 9 mt is deducted from the ACL to accommodate the incidental open access fishery (6.9 mt), EFP fishing (1 mt), and research catch (1.1 mt), resulting in a fishery HG of 1,135 mt.

[w] Longnose skate. A stock assessment was conducted in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,526 mt is derived from the 2007 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,415 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock and is less than the ABC. 147 mt is deducted from the ACL to accommodate the Tribal fishery (130 mt), incidental open access fishery (3.8 mt), and research catch (13.2 mt), resulting in a fishery HG of 1,853 mt.

[x] Longspine thornyhead. A 2013 longspine thornyhead coastwide stock assessment estimated the stock to be at 75 percent of its unfished biomass in 2013. A coastwide OFL of 4,339 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 3,614 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. For the portion of the stock that is north of 34°27′ N lat., the ACL is 2,747 mt, and is 76 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 46.8 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (3.3 mt), and research catch (13.5 mt), resulting in a fishery HG of 2,700.2 mt. For that portion of the stock south of 34°27′ N lat. the ACL is 867 mt and is 24 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 3.2 mt is deducted from the ACL to accommodate the incidental open access fishery (1.8 mt), and research catch (1.4 mt), resulting in a fishery HG of 863.8 mt.

[y] Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 30.6 percent reduction from the OFL ($\sigma = 1.44/P^* = 0.40$) as it is a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 509 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (7 mt), and the incidental open access fishery (2 mt), resulting in a fishery HG of 1,091 mt.

[z] Pacific whiting. The coastwide stock assessment was published in 2018 and estimated the spawning stock to be at 66.7 percent of its unfished biomass. The 2018 OFL of 725,984 mt is based on the 2018 assessment with an $F_{40\%}$ F_{MSY} proxy. The 2018 coastwide, unadjusted Total Allowable Catch (TAC) of 517,775 mt is based on the 2018 stock assessment. The U.S. TAC is 73.88 percent of the coastwide unadjusted TAC. Up to 15 percent of each party's unadjusted 2017 TAC (58,901 mt for the U.S. and 20,824 mt for Canada) is added to each party's 2018 unadjusted TAC, resulting in a U.S. adjusted 2018 TAC of 441,433 mt. From the adjusted U.S. TAC, 77,251 mt is deducted to accommodate the Tribal fishery, and 1,500 mt is deducted to accommodate research and bycatch in other fisheries, resulting in a fishery HG of 362,682 mt. The TAC for Pacific whiting is established under the provisions of the Agreement with Canada on Pacific Hake/Whiting and the Pacific Whiting Act of 2006, 16 U.S.C. 7001–7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting.

[aa] Petrale sole. A 2015 stock assessment update was conducted, which estimated the stock to be at 31 percent of its unfished biomass in 2015. The OFL of 3,152 mt is projected in the 2015 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 3,013 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 240.9 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), the incidental open access fishery (3.2 mt) and research catch (17.7 mt), resulting in a fishery HG of 2,772.1 mt.

[bb] Sablefish north. A coastwide sablefish stock assessment update was conducted in 2015. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2015. The coastwide OFL of 8,329 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{45\%}$. The ABC of 7,604 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.40$). The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N lat., using the 2003–2014 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.8 percent apportioned north of 36° N lat. and 26.2 percent apportioned south of 36° N lat. The northern ACL is 5,475 mt and is reduced by 548 mt for the Tribal allocation (10 percent of the ACL north of 36° N lat.). The 548 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 2c.

[cc] Sablefish south. The ACL for the area south of 36° N lat. is 1,944 mt (26.2 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL to accommodate the incidental open acrdedseescess fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,939 mt.

[dd] Shortbelly rockfish. A non-quantitative shortbelly rockfish assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated to be 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt is based on the estimated MSY in the 2007 stock assessment. The ABC of 5,789 mt is a 16.7 percent reduction of the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. The 500 mt ACL is set to accommodate incidental catch when fishing for co-occurring healthy stocks and in recognition of the stock's importance as a forage species in the California Current ecosystem. 10.9 mt is deducted from the ACL to accommodate the incidental open access fishery (8.9 mt) and research catch (2 mt), resulting in a fishery HG of 489.1 mt.

[ee] Shortspine thornyhead. A 2013 coastwide shortspine thornyhead stock assessment estimated the stock to be at 74.2 percent of its unfished biomass in 2013. A coastwide OFL of 3,116 mt is projected in the 2013 stock assessment using an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,596 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. For the portion of the stock that is north of 34°27′ N lat., the ACL is 1,698 mt. The northern ACL is 65.4 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 59 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.8 mt), and research catch (7.2 mt), resulting in a fishery HG of 1,639 mt for the area north of 34°27′ N lat. For that portion of the stock south of 34°27′ N lat. the ACL is 898 mt. The southern ACL is 34.6 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 42.3 mt is deducted from the ACL to accommodate the incidental open access fishery (41.3 mt) and research catch (1 mt), resulting in a fishery HG of 855.7 mt for the area south of 34°27′ N lat.

[ff] Spiny dogfish. A coastwide spiny dogfish stock assessment was conducted in 2011. The coastwide spiny dogfish biomass was estimated to be at 63 percent of its unfished biomass in 2011. The coastwide OFL of 2,500 mt is derived from the 2011 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide ABC of 2,083 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 338 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (49.5 mt), EFP catch (1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,745 mt.

[gg] Splitnose rockfish. A coastwide splitnose rockfish assessment was conducted in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose rockfish in the north is managed in the Minor Slope Rockfish complex and with stock-specific harvest specifications south of 40°10′ N lat. The coastwide OFL is projected in the 2009 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide OFL is apportioned north and south of 40°10′ N lat. based on the average 1916–2008 assessed area catch resulting in 64.2 percent of the coastwide OFL apportioned south of 40°10′ N lat., and 35.8 percent apportioned for the contribution of splitnose rockfish to the northern Minor Slope Rockfish complex. The southern OFL of 1,842 mt results from the apportionment described above. The southern ABC of 1,761 mt is a 4.4 percent reduction from the southern OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{40\%}$. 10.7 mt is deducted from the ACL to accommodate the incidental open access fishery (0.2 mt), research catch (9 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,750.3 mt.

[hh] Starry flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent in Washington and Oregon, and 62 percent in California). The coastwide OFL of 1,847 mt is set equal to the 2016 OFL, which was derived from the 2005 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,282 mt is a 30.6 percent reduction from the OFL ($\sigma = 1.44/P^* = 0.40$) because it is a category 3 stock. The ACL is set equal to the ABC because the stock was estimated to be above its target biomass of $B_{25\%}$ in 2018. 10.3 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), and the incidental open access fishery (8.3 mt), resulting in a fishery HG of 1,271.7 mt.

[ii] Widow rockfish. The widow rockfish stock was assessed in 2015 and was estimated to be at 75 percent of its unfished biomass in 2015. The OFL of 13,237 mt is projected in the 2015 stock assessment using the $F_{50\%}$ F_{MSY} proxy. The ABC of 12,655 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 217.7 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (0.5 mt), EFP catch (9 mt) and research catch (8.2 mt), resulting in a fishery HG of 12,437.3 mt.

[jj] Yellowtail rockfish. A 2013 yellowtail rockfish stock assessment was conducted for the portion of the population north of 40°10′ N. lat. The estimated stock depletion is 67 percent of its unfished biomass in 2013. The OFL of 6,574 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 6,002 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 1,030 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (3.4 mt), EFP catch (10 mt) and research catch (16.6 mt), resulting in a fishery HG of 4,972.1 mt.

[kk] Minor Nearshore Rockfish north. The OFL for Minor Nearshore Rockfish north of 40°10′ N lat. of 119 mt is the sum of the OFL contributions for the component species managed in the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue/deacon rockfish in California, brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 105 mt is the summed contribution of the ABCs for the component species. The ACL of 105 mt is the sum of contributing ABCs. 1.8 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), and the incidental open access fishery (0.3 mt), resulting in a fishery HG of 103.2 mt. Between 40°10′ N lat. and 42° N lat. the Minor Nearshore Rockfish complex north has a harvest guideline of 40.2 mt. Blue/deacon rockfish south of 42° N lat. has a species-specific HG, described in footnote pp.

[ll] Minor Shelf Rockfish north. The OFL for Minor Shelf Rockfish north of 40°10′ N lat. of 2,302 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.36 for a category 1 stock (chilipepper), a sigma value of 0.72 for category 2 stocks (greenspotted rockfish between 40°10′ and 42° N lat. and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 2,048 mt is the summed contribution of the ABCs for the component species. The ACL of 2,047 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 83.8 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt), and research catch (24.8 mt), resulting in a fishery HG of 1,963.2 mt.

[mm] Minor Slope Rockfish north. The OFL for Minor Slope Rockfish north of 40°10′ N. lat. of 1,896 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the Minor Slope Rockfish complexes are based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.36 for the other category 1 stock (splitnose rockfish), a sigma value of 0.72 for category 2 stocks (rougheye rockfish, blackspotted rockfish, and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish because the variance in estimated spawning biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 1,754 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all the assessed component stocks (rougheye rockfish, blackspotted rockfish, sharpchin rockfish, and splitnose rockfish) are above the target biomass of $B_{40\%}$. 65.1 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (18.6 mt), EFP catch (1 mt), and research catch (9.5 mt), resulting in a fishery HG of 1,688.9 mt.

[nn] Minor Nearshore Rockfish south. The OFL for the Minor Nearshore Rockfish complex south of 40°10′ N lat. of 1,344 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Nearshore Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (blue/deacon rockfish north of 34°27′ N lat., brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,180 mt is the summed contribution of the ABCs for the component species. The ACL of 1,179 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution for China rockfish where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 4.1 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.7 mt), resulting in a fishery HG of 1,174.9 mt. Blue/deacon rockfish south of 42° N lat. has a species-specific HG set equal to the 40–10-adjusted ACL for the portion of the stock north of 34°27′ N lat. (250.3 mt) plus the ABC contribution for the unassessed portion of the stock south of 34°27′ N lat. (60.8 mt). The California (*i.e.,* south of 42° N lat.) blue/deacon rockfish HG is 311.1 mt.

[oo] Minor Shelf Rockfish south. The OFL for the Minor Shelf Rockfish complex south of 40°10′ N lat. of 1,918 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Shelf Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,625 mt is the summed contribution of the ABCs for the component species. The ACL of 1,624 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 47.2 mt is deducted from the ACL to accommodate the incidental open access fishery (8.6 mt), EFP catch (30 mt), and research catch (8.6 mt), resulting in a fishery HG of 1,576.8 mt.

[pp] Minor Slope Rockfish south. The OFL of 829 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Slope Rockfish complex is based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.72 for category 2 stocks (blackgill rockfish, rougheye rockfish, blackspotted rockfish, and sharpchin rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish because the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 719 mt is the summed contribution of the ABCs for the component species. The ACL of 709 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of blackgill rockfish where the 40–10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 20.2 mt is deducted from the ACL to accommodate the incidental open access fishery (17.2 mt), EFP catch (1 mt), and research catch (2 mt), resulting in a fishery HG of 688.8 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10′ N lat. set equal to the species' contribution to the 40–10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries counts against this HG of 122.4 mt. Nontrawl fisheries are subject to a blackgill rockfish HG of 45.3 mt.

[qq] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with species-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: Butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. The Other Flatfish OFL of 9,690 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 7,281 mt is based on a sigma value of 0.72 for a category 2 stock (rex sole) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.40. The ACL is set equal to the ABC. The ACL is set equal to the ABC because all of the assessed stocks (*i.e.,* Pacific sanddabs and rex sole) were above their target biomass of $B_{25\%}$. 204 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery 125 mt), and research catch (19 mt), resulting in a fishery HG of 7,077 mt.

[rr] Other Fish. The Other Fish complex is comprised of kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. The 2015 assessment for the kelp greenling stock off of Oregon projected an estimated depletion of 80 percent. All other stocks are unassessed. The OFL of 501 mt is the sum of the OFL contributions for kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. The ABC for the Other Fish complex is based on a sigma value of 0.44 for kelp greenling off Oregon and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.44 was calculated for kelp greenling off Oregon because the variance in estimated spawning biomass was greater than the 0.36 sigma used as a proxy for other category 1 stocks. The resulting ABC of 441 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all of the assessed stocks (kelp greenling off Oregon) were above their target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is equal to the ACL of 441 mt.

■ 3. In § 660.231, revise paragraph (b)(3)(iv) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(iv) Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30′ N lat.). From April 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30′ N lat.) may possess and land up to the following cumulative limits: 200 pounds (91 kg) dressed weight of Pacific halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional Pacific halibut in excess of the 200-pounds-per-1,000-pound ratio per landing. ''Dressed'' Pacific halibut in this area means halibut landed eviscerated with their heads on. Pacific halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

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■ 4. Tables 2 (North) and (South) to part 660, subpart E are revised to read as follows:

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

10/01/2018

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
5	**Pacific ocean perch**	1,800 lb/ 2 months					
6	**Sablefish**	1,125 lb/week, not to exceed 3,375 lb/2 months	1,100 lb/week, not to exceed 3,300 lb/ 2 months			1,400 lb/week, not to exceed 4,200 lb/ 2 months	
7	**Longspine thornyhead**	10,000 lb/ 2 months					
8	**Shortspine thornyhead**	2,000 lb/ 2 months			2,500 lb/ 2 months		
9 10 11 12 13 14	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
15	**Whiting**	10,000 lb/ trip					
16	**Minor Shelf Rockfish[2/], Shortbelly, & Widow rockfish**	200 lb/ month					
17	**Yellowtail rockfish**	1,000 lb/ month					
18	**Canary rockfish**	300 lb/ 2 months					
19	**Yelloweye rockfish**	CLOSED					
20	**Minor Nearshore Rockfish & Black rockfish**						
21	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[4/]					
22	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish				
23	**Lingcod[5/]**	600 lb/2 months		1,400 lb/ 2 months		700 lb/ month	400 lb/ month
24	**Pacific cod**	1,000 lb/ 2 months					
25	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
26	**Longnose skate**	Unlimited					
27	**Other Fish[6/]& Cabezon in Oregon and California**	Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
2/ Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish and splitnose rockfish is included in the trip limits for Minor Slope Rockfish.
3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.
6/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table — 10/01/2018

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/] (also applies around islands)					

See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.

3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish			40,000 lb/ 2 months, of which no more than 1,600 lb may be blackgill rockfish		
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	1,125 lb/week, not to exceed 3,375 lb/2 months	1,100 lb/week, not to exceed 3,300 lb/ 2 months			1,400 lb/week, not to exceed 4,200 lb/ 2 months	
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
13							
14							
15							
16							
17							
18	**Whiting**	10,000 lb/ trip					
19	**Minor Shelf Rockfish[2/], Shortbelly rockfish, Widow rockfish (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.					
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED	4,000 lb/ 2 months			
22	**Chilipepper**						
23	40°10' N. lat. - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly and widow rockfish limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA					
25	**Canary rockfish**	300 lb/ 2 months					
26	**Yelloweye rockfish**	CLOSED					
27	**Cowcod**	CLOSED					
28	**Bronzespotted rockfish**	CLOSED					
29	**Bocaccio**						
30	40°10' N. lat. - 34°27' N. lat.	1,000 lb/ 2 months				1,500 lb/ 2 months	
31	South of 34°27' N. lat.	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
32	**Minor Nearshore Rockfish & Black rockfish**						
33	Shallow nearshore	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
34	Deeper nearshore	1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
35	**California Scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
36	**Lingcod[4/]**	200 lb/ 2 months	CLOSED	800 lb/ 2 months	1,200 lb/ bimonthly	600 lb/ month	300 lb/ month
37	**Pacific cod**	1,000 lb/ 2 months					
38	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
39	**Longnose skate**	Unlimited					
40	**Other Fish[5/] & Cabezon**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude	
	and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm
	depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower
	than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose
	other than transiting.
2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor	
	Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish
	have a species specific trip limit.
3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.	
4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.	
5/ "Other Fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.	
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.	

■ 5. Table 3 (North) and Table 3 (South) to part 660, subpart F are revised to read as follows:

Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 10/01/2018

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	shoreline - 100 fm line[1/]					
2	46°16' N. lat. - 42°00' N. lat.	30 fm line[1/] - 100 fm line[1/]					
3	42°00' N. lat. - 40°10' N. lat.	30 fm line[1/] - 100 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
5	**Pacific ocean perch**	100 lb/ month					
6	**Sablefish**	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months				300 lb/ day, or 1 landing per week of up to 1,400 lb, not to exceed 2,800 lb/ 2 months	
7	**Shortpine thornyheads and longspine thornyheads**	CLOSED					
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
9							
10		South of 42° N. lat., when fishing for "Other Flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
11							
12							
13							
14	**Whiting**	300 lb/ month					
15	**Minor Shelf Rockfish[2/], Shortbelly rockfish, & Widow rockfish**	200 lb/ month					
16	**Yellowtail rockfish**	500 lb/ month					
17	**Canary rockfish**	150 lb/ 2 months					
18	**Yelloweye rockfish**	CLOSED					
19	**Minor Nearshore Rockfish & Black rockfish**						
20	North of 42°00' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish					
21	42°00' N. lat. - 40°10' N. lat.	8,500 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish	7,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish				
22	**Lingcod[5/]**	300 lb/ month		700 lb/ month			300 lb/ month
23	**Pacific cod**	1,000 lb/ 2 months					
24	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
25	**Longnose skate**	Unlimited					
26	**Other Fish[6/] & Cabezon in Oregon and California**	Unlimited					
27	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*						
28	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. Salmon trollers may retain and land up to 1 lingcod per 15 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. This limit only applies during times when lingcod retention is allowed, and is not "CLOSED." This limit is within the per month limit for lingcod described in the table above, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					

TABLE 3 (North)

Table 3 (North). Continued

29	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*		
30	North	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.	

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 10/01/2018

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N. lat. - 34°27' N. lat.		40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.		75 fm line[1/] - 150 fm line[1/](also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.							
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		10,000 lb/ 2 months, of which no more than 475 lb may be blackgill rockfish			10,000 lb/ 2 months, of which no more than 550 lb may be blackgill rockfish		
4	**Splitnose rockfish**		200 lb/ month					
5	**Sablefish**							
6		40°10' N. lat. - 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 2,000 lb/ 2 months				300 lb/ day, or 1 landing per week of up to 1,400 lb, not to exceed 2,800 lb/ 2 months	
7		South of 36°00' N. lat.	300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 3,200 lb/ 2 months				300 lb/ day, or 1 landing per week of up to 1,600 lb, not to exceed 4,800 lb/ 2 months	
8	**Shortpine thornyheads and longspine thornyheads**							
9		40°10' N. lat. - 34°27' N. lat.	CLOSED					
10		South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**		3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs.					
12								
13			South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14								
15								
16								
17	**Whiting**		300 lb/ month					
18	**Minor Shelf Rockfish[2/], Shortbelly, Widow rockfish and Chilipepper**							
19		40°10' N. lat. - 34°27' N. lat.	400 lb/ 2 months	CLOSED	400 lb/ 2 months			
20		South of 34°27' N. lat.	1,500 lb/ 2 months		1,500 lb/ 2 months			
21	**Canary rockfish**		150 lb/ 2 months					
22	**Yelloweye rockfish**		CLOSED					
23	**Cowcod**		CLOSED					
24	**Bronzespotted rockfish**		CLOSED					
25	**Bocaccio**		500 lb/ 2 months	CLOSED	500 lb/ 2 months			
26	**Minor Nearshore Rockfish & Black rockfish**							
27	Shallow nearshore		1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
28	Deeper nearshore		1,000 lb/ 2 months	CLOSED	1,000 lb/ 2 months			
29	California scorpionfish		1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
30	**Lingcod[4/]**		100 lb/ month	CLOSED	400 lb/ month	600 lb/ month	400 lb/ month	150 lb/ month
31	**Pacific cod**		1,000 lb/ 2 months					
32	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
33	**Longnose skate**		Unlimited					
34	**Other Fish[5/] & Cabezon**		Unlimited					

TABLE 3 (South)

Table 3 (South). Continued

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
35	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**							
36	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**							
37		*40° 10' N. lat. - 38° 00' N. lat.*	*100 fm line 1/ - 200 fm line 1/*	*100 fm line 1/ - 150 fm line 1/*				*100 fm line 1/ - 200 fm line 1/*
38		*38° 00' N. lat. - 34° 27' N. lat.*	*100 fm line 1/ - 150 fm line 1/*					
37		*South of 34° 27' N. lat.*	*100 fm line 1/ - 150 fm line 1/ along the mainland coast; shoreline - 150 fm line 1/ around islands*					
39			Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
40	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*							
41		South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 3 (South) cont'd

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and includes kelp greenling, leopard shark, and cabezon in Washington.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 2018–21879 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 195
Tuesday, October 9, 2018

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

Agricultural Marketing Service

7 CFR Parts 56, 62, and 70

[Docket No. AMS–LPS–15–0057]

Amendments to Quality Systems Verification Programs and Conforming Changes; Withdrawal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: This action informs the public that the Agricultural Marketing Service (AMS) is withdrawing a proposed rule published in the **Federal Register** on November 7, 2016, that proposed to amend Quality Systems Verification Program (QSVP) regulations. Upon further review, the agency has decided to clarify that all voluntary, user-fee services under this part are applicable to all commodities covered by the Agricultural Marketing Act of 1946 (Act), as amended. Accordingly, a proposed rule covering all audit-based services is forthcoming from the agency.

DATES: The proposed rule published November 7, 2016, at 81 FR 78057, is withdrawn as of October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Jeffrey Waite, Branch Chief, Auditing Services Branch, Quality Assessment Division; Livestock and Poultry Program, Agricultural Marketing Service, U.S. Department of Agriculture; Room 3932–S, STOP 0258, 1400 Independence Avenue SW, Washington, DC 20250–0258; telephone (202) 720–4411; or email to *Jeffrey.Waite@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The Act directs and authorizes the Secretary of Agriculture to facilitate the competitive and efficient marketing of agricultural products and provides that rulemaking be undertaken as necessary to effectuate its purpose. Under the authority of the Act, AMS programs support a strategic marketing perspective that adapts product and marketing decisions to consumer demands, changing domestic and international marketing practices, and new technology. To assist in marketing, AMS developed the QSVP, a suite of audit-based programs that can provide confidence that process points meet specified requirements.

This action informs the public of the withdrawal of the proposed rule published in the **Federal Register** (81 FR 78057) on November 7, 2016. The proposed rule would have amended 7 CFR part 62, QSVP to expand the commodities under QSVP to include those authorized under the Act; would have amended the title of the regulation to remove the reference to ''Livestock, Meat, and Other Commodities''; would have defined the types of programs and services offered under QSVP; and would have updated administrative items to reflect current terminology and organizational structure. Additionally, the proposed rule would have amended 7 CFR parts 56 and 70, which provide for services to the shell egg and poultry industries, respectively, to remove any references to audit and verification activities and update administrative items to reflect current organizational structure. The proposed rule provided a 60-day public comment period during which no comments were received.

Upon further review, AMS decided to clarify that all voluntary, user-fee services under 7 CFR part 62 are applicable to all commodities covered by the Act. AMS also plans to harmonize administrative procedures governing these services. A new proposed rule to amend 7 CFR part 62 to that effect is forthcoming from the agency. Therefore, for the reasons set forth above, AMS announces that it is withdrawing the proposed rule published in the **Federal Register** (81 FR 78057) on November 7, 2016.

Dated: October 3, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–21843 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–SC–17–0073; SC18–985–1A PR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2018–2019 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to increase the quantity of Class 3 (Native) spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2018–2019 marketing year. The Committee recommended this action to avoid extreme fluctuations in supplies and prices and to help maintain stability in the Far West spearmint oil market.

DATES: Comments must be received by December 10, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field

Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah). Part 985 (referred to as ''the Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of spearmint oil producers operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2018, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2018).

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the Order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would increase the quantity of Native spearmint oil produced in the Far West that handlers may purchase from, or handle on behalf of, producers during the 2018–2019 marketing year, which ends on May 31, 2019.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on a revision to the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2018–2019 marketing year. The salable quantity and allotment percentage for Native spearmint oil for the 2018–19 marketing year was established at 1,307,947 pounds and 53 percent, respectively, in a final rule published in the **Federal Register** on July 24, 2018 (83 FR 34935). This proposed rule would increase the Native spearmint oil salable quantity from 1,307,947 pounds to 1,357,315 pounds and the allotment percentage from 53 percent to 55 percent.

Under the volume regulation provisions of the Order, the Committee meets each year to adopt a marketing policy for the ensuing year. When the Committee's marketing policy considerations indicate a need to limit the quantity of spearmint oil available to the market to establish or maintain orderly marketing conditions, the Committee submits a recommendation to the Secretary of Agriculture for volume regulation.

Volume regulation under the Order is effectuated through the establishment of a salable quantity and allotment percentage applicable to each class of spearmint oil handled in the production area during a marketing year. The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle on behalf of, producers during a given marketing year. The allotment percentage for each class of oil is derived by dividing the salable quantity by the total industry allotment base for that same class of oil. The total industry allotment base is the aggregate of all allotment base held individually by producers. Producer allotment base is the quantity of each class of spearmint oil that the Committee has determined is representative of a producer's spearmint oil production. Each producer is allotted a pro rata share of the total salable quantity of each class of spearmint oil each marketing year. Each producer's annual allotment is determined by applying the allotment percentage to the producer's individual allotment base for each applicable class of spearmint oil.

The full Committee met on October 25, 2017, to consider its marketing policy for the 2018–2019 marketing year. At that meeting, the Committee determined that marketing conditions indicated a need for volume regulation of both classes of spearmint oil (Scotch and Native) for the 2018–2019 marketing year. The Committee recommended salable quantities of 760,660 pounds and 1,307,947 pounds, and allotment percentages of 35 percent and 53 percent, respectively, for Scotch and Native spearmint oil. A proposed rule to that effect was published in the **Federal Register** on April 6, 2018 (83 FR 14766). Comments on the proposed rule were solicited from interested persons until June 5, 2018. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2018–2019 marketing year was published in the **Federal Register** on July 24, 2018 (83 FR 34935).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52, the full eight-member Committee met again on July 18, 2018, to evaluate the current year's volume control regulation. At the meeting, the Committee assessed the current market conditions for spearmint oil in relation to the salable quantities and allotment percentages established for the 2018–2019 marketing year. The Committee considered a number of factors, including the current and projected supply and the estimated future demand for all classes of spearmint oil. The Committee determined that the established salable quantity and allotment percentage in effect for Native spearmint oil for the 2018–2019 marketing year should be increased to accommodate a rise in market demand for that class of spearmint oil.

At the July 18, 2018, meeting, the Committee recommended increasing the 2018–2019 marketing year Native spearmint oil salable quantity from 1,307,947 pounds to 1,357,315 pounds and the allotment percentage from 53 percent to 55 percent. The vote to recommend to the Secretary to increase the salable quantity and allotment percentage passed unanimously.

This proposal would make additional amounts of Native spearmint oil

available to the market by increasing the salable quantity and allotment percentage previously established under the Order for the 2018–2019 marketing year. This proposed rule would increase the Native spearmint oil salable quantity by 49,368 pounds, to 1,357,315 pounds, and would raise the allotment percentage 2 percentage points, to 55 percent. The additional oil could come from 2018–2019 marketing year production or from releasing Native spearmint oil held by producers in the reserve pool. As of May 31, 2018, the Committee records show that the reserve pool for Native spearmint oil contained 1,020,583 pounds of oil, an amount it considers excessive relative to market conditions.

At the July 18, 2018, meeting, the Committee staff reported that estimated demand for Native spearmint oil for the 2018–2019 marketing year is greater than previously anticipated. The Committee initially estimated the trade demand for Native spearmint oil for the 2018–2019 marketing year to be 1,306,625. At the July 2018 meeting, the Committee revised the expected trade demand for the 2018–2019 marketing year from 1,306,625 pounds to 1,400,000 pounds. If realized, trade demand would be 43,991 pounds above the quantity of Native spearmint oil available under the volume control levels now in effect (the Committee estimates 1,356,009 pounds currently available minus the 1,400,000 pounds estimated trade demand, equals a deficit of 43,991 pounds). Without increasing the salable quantity and allotment percentage, the market for Native spearmint oil may be shorted. The increased quantity of Native spearmint oil (49,368 pounds) that would be made available to the market as a result of this rulemaking would ensure that market demand is fully satisfied in the current year and that there would be approximately 5,377 pounds of Native spearmint oil salable inventory available to carry-over for the start of the 2019–2020 marketing year, which begins on June 1, 2019.

In making the recommendation to increase the salable quantity and allotment percentage of Native spearmint oil, the Committee considered all currently available information on the price, supply, and demand of Native spearmint oil. The Committee also considered reports and other information from handlers and producers in attendance at the meeting.

This proposal would increase the 2018–2019 marketing year Native spearmint oil salable quantity by 49,368 pounds to a total of 1,357,315 pounds. Actual sales of Native spearmint oil for the 2017–2018 marketing year totaled 1,565,515 pounds. The 5-year average of Native spearmint oil sales is 1,365,377 pounds.

The Committee estimates that this action would result in 5,377 pounds of salable Native spearmint oil being carried into the 2019–2020 marketing year which begins June 1, 2019. While 5,377 pounds is a relatively low quantity of salable Native spearmint oil to begin the marketing year, reserve pool oil could be released into the market under a future relaxation of the volume regulation should it be necessary to adequately supply the market prior to the beginning of the 2019–2020 marketing year. The Committee estimates that a total of 1,082,257 pounds of Native spearmint oil (1,020,583 currently in reserve and an estimated 61,674 pounds of excess oil produced during the 2018–2019 marketing year) would be available from the reserve pool, if needed.

As mentioned previously, when the 2018–2019 marketing policy statement was drafted, handlers estimated the demand for Native spearmint oil for the 2018–2019 marketing year to be 1,306,625 pounds. The Committee's initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 2018–2019 marketing year was based on that estimate. The Committee did not anticipate the level of demand that the Native spearmint oil market is currently experiencing and did not account for it when the marketing policy for the 2018–19 marketing year was adopted.

At the July 18, 2018, meeting, the Committee revised its estimate of the current trade demand to 1,400,000 pounds. The Committee now believes that the supply of Native spearmint oil available to the market under the established salable quantity and allotment percentage would be insufficient to satisfy the current level of demand for oil at reasonable price levels. The Committee further believes that the increase in the salable quantity and allotment percentage proposed in this action is vital to ensuring an adequate supply of Native spearmint oil is available to the market moving forward.

The Committee's stated intent in the use of the Order's volume control regulation is to keep adequate supplies available to meet market needs and to maintain orderly marketing conditions. With that in mind, the Committee developed its recommendation for increasing the Native spearmint oil salable quantity and allotment percentage for the 2018–2019 marketing year based on the information discussed above, as well as the summary data outlined below.

(A) *Initial estimated 2018–2019 Native allotment base—2,467,825 pounds.* This is the allotment base estimate upon which the original 2018–2019 salable quantity and allotment percentage was based.

(B) *Revised 2018–2019 Native allotment base—2,467,845 pounds.* This is 20 pounds more than the initial estimated allotment base of 2,467,825 pounds. The difference is the result of annual adjustments made to the allotment base at the beginning of the marketing year in accordance with the provisions of the Order.

(C) *Initial 2018–2019 Native allotment percentage—53 percent.* This was unanimously recommended by the Committee on October 25, 2017.

(D) *Initial 2018–2019 Native salable quantity—1,307,947 pounds.* This figure is 53 percent of the original estimated 2018–2019 allotment base of 2,467,825 pounds.

(E) *Adjusted initial 2018–2019 Native salable quantity—1,307,958 pounds.* This figure reflects the salable quantity actually available at the beginning of the 2018–2019 marketing year. This quantity is derived by applying the initial 53 percent allotment percentage to the revised allotment base of 2,467,845.

(F) *Proposed revision to the 2018–2019 Native salable quantity and allotment percentage:*

(1) *Proposed increase in the Native allotment percentage—2 percent.* The Committee recommended an increase of 2 percentage points over the initial Native allotment percentage.

(2) *Proposed revised 2018–2019 Native allotment percentage—55 percent.* This number was derived by adding the increase of 2 percentage points to the initially established 2018–2019 allotment percentage of 53 percent.

(3) *Proposed revised 2018–2019 Native salable quantity—1,357,315 pounds.* This amount is 55 percent of the revised 2018–2019 allotment base of 2,467,845 pounds.

(4) *Computed increase in the 2018–2019 Native salable quantity as a result of the proposed revision—49,368 pounds.* This figure represents the difference between the current salable quantity of 1,307,947 pounds and the proposed salable quantity of 1,357,315 pounds.

Scotch spearmint oil is also regulated by the Order. As mentioned previously, a salable quantity and allotment percentage for Scotch spearmint oil for the 2018–19 marketing year was established in a final rule published in

the **Federal Register** on July 24, 2018 (83 FR 34935). At the July 18, 2018, meeting, the Committee considered the projected production, inventory, and marketing conditions for Scotch spearmint oil for the 2018–2019 marketing year. After receiving reports from the Committee staff and comments from the industry, the consensus of the Committee was that the established salable quantity and allotment percentage for Scotch spearmint oil was appropriate for the current market conditions. Therefore, the Committee took no further action with regard to Scotch spearmint oil for the 2018–2019 marketing year.

This proposed rule would relax the regulation of Native spearmint oil and would allow producers to meet market demand while improving producer returns. In conjunction with the issuance of this proposed rule, the Committee's revised marketing policy statement for the 2018–2019 marketing year has been reviewed by USDA.

The proposed increase in the Native spearmint oil salable quantity and allotment percentage would account for the anticipated market needs for that class of oil. In determining anticipated market needs, the Committee considered changes and trends in historical sales, production, and demand.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are eight spearmint oil handlers subject to regulation under the Order, and approximately 43 producers of Scotch spearmint oil and approximately 95 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on the SBA's definition of small entities, the Committee estimates that only two of the eight handlers regulated by the Order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 12 of the 43 Scotch spearmint oil producers and 31 of the 95 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, the majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The use of volume control regulation allows the spearmint oil industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. Without volume control regulation, the supply and price of spearmint oil would likely fluctuate widely. Periods of oversupply could result in low producer prices and a large volume of oil stored and carried over to future crop years. Periods of undersupply could lead to excessive price spikes and drive end users to source flavoring needs from other markets, potentially causing long-term economic damage to the domestic spearmint oil industry. The Order's volume control provisions have been successfully implemented in the domestic spearmint oil industry since 1980 and provide benefits for producers, handlers, manufacturers, and consumers.

This proposed rule would increase the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2018–2019 marketing year, which ends May 31, 2019. The 2018–2019 marketing year Native spearmint oil salable quantity was initially established at 1,307,947 pounds and the allotment percentage initially set at 53 percent. This proposed rule would increase the Native spearmint oil salable quantity to 1,357,315 pounds and the allotment percentage to 55 percent.

Based on the information and projections available at the July 18, 2018, meeting, the Committee considered several alternatives to this increase. The Committee considered leaving the salable quantity and allotment percentage unchanged and also considered other potential levels of increase. The Committee reached its recommendation to increase the salable quantity and allotment percentage for Native spearmint oil after careful consideration of all available information and input from all interested industry participants because it believes that the levels recommended would achieve the desired objectives. Without the increase, the Committee believes the industry would not be able to satisfactorily meet market demand.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Specialty Crops. No changes are necessary in those requirements as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would relax the volume regulation requirements established under the Order for the 2018–19 marketing year. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

In addition, the Committee's July 18, 2018, meeting was widely publicized throughout the Far West spearmint oil industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. The meeting was public, and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered

before a final determination is made on this matter.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is proposed to be amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 985.233, revise the section heading and paragraph (b) to read as follows:

§ 985.233 Salable quantities and allotment percentages—2018–2019 marketing year.

* * * * *

(b) Class 3 (Native) oil—a salable quantity of 1,357,315 pounds and an allotment percentage of 55 percent.

Dated: October 3, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–21844 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 986

[Doc. No. AMS–SC–18–0019; SC18–986–1 PR]

Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; Revision of Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a proposal to revise the reporting requirements under the Federal marketing order for pecans. The revised reporting requirements would enable the American Pecan Council (Council) to collect information from handlers on the average handler price paid and the average shelled pecan yield. The Council would use this information to provide important statistical reports to the industry and meet requirements under the marketing order.

DATES: Comments must be received by November 8, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or email: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202)720–8938, or email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule, pursuant to 5 U.S.C. 553, would amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 986, (7 CFR part 986), regulating the handling of pecans grown in the states of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. Part 986 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Council locally administers the Order and is comprised of growers and handlers of pecans operating within the production area, and one accumulator and one public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would revise the reporting requirements under the Order. If approved, this action would require all pecan handlers to report to the Council the average handler price paid and average shelled pecan yield as part of its existing year-end report. This information would be used by the Council to provide statistical reports to the industry and meet requirements under the Order. This proposal was unanimously recommended by the Council at its January 24, 2018, meeting and affirmed at its April 17, 2018 meeting.

Section 986.76 provides the authority to collect reports on the quantity of pecans handled and other pertinent information as specified by the Council. Section 986.78 provides, with the

approval of the Secretary, authority for the Council to collect other reports and information from handlers needed to perform its duties. Section 986.175 specifies that handlers shall submit a year-end report to the Council that includes the amount of shelled and inshell pecans in inventory, total inventory calculated on an inshell basis, total weight and type of domestic pecans handled for the fiscal year, and information on assessments owed, paid, or due.

This proposed rule would revise § 986.175 to require that additional information be included in the year-end report. These revisions would require handlers to report the average price paid by handler and average yield of shelled pecans as part of the existing year-end report.

At its January 24, 2018, and April 17, 2018, meetings, the Council reviewed the reporting requirements under the Order and determined there were additional data that would be beneficial to collect and summarize for the industry on an annual basis. Specifically, the Council recommended adding two additional items to be reported as part of the annual year-end reporting requirement, average price paid by handlers and shelled pecan yield.

While the National Agricultural Statistics Service (NASS) reports average grower prices, this proposed reporting change would provide information regarding a handler's overall cost of acquiring pecans. Some handlers buy directly from growers, but many buy from other handlers or import pecans. Understanding the cost of pecans being handled is key information in determining the value of the overall crop and subsequent impacts on the market for pecans the following season. During the meetings, members noted that collecting the average price paid would also be necessary to complete the marketing policy report required under the Order. The marketing policy, as required by § 986.65, must include projected prices for the upcoming fiscal year, which would be influenced by handler costs. Further, the Council believes providing this information would improve the information available to the pecan industry. In particular the Council feels this information may give growers better information that can be used in making business decisions. The Council recommended adding this reporting requirement as there is currently no comprehensive source for handler cost information.

The Council also discussed asking handlers to provide information regarding the weight of shelled pecans handled. During the formal rulemaking hearing to promulgate the Order, a witness testified regarding a conversion rate of multiplying the shelled weight by two to calculate inshell weight. That conversion rate was incorporated into the Order. Using this conversion, the weight of shelled pecans is approximately 50 percent of the inshell weight. This proportion is referred to as the ''shell-out'' or shelled pecan yield. However, there are natural variations in pecans and yield can vary depending on the thickness of the shells of different varieties and can also vary from year to year. These fluctuations make it challenging to accurately convert the total inshell volume harvested into shelled pounds, or shelled pounds into their inshell equivalent to provide an accurate estimate of overall supply.

As with the handler price paid, there is currently no central industry source for information on the shelled pecan yield. The Council believes collecting this data would allow them to provide the industry with an updated annual average of this yield, which could be an indicator of quality, and over time provide a series of data on shelled pecan yield that would allow them to determine if changes to the current conversion rate are needed.

Following the recommendation of the proposed changes made at the January 24, 2018 meeting, some members had questions about the specific data that would be collected. Based on these questions, the Council made some adjustments to the proposed form to clarify that handlers would report the average price paid for all inshell pecans purchased during the fiscal year, regardless of how the pecans are handled, including pecans from outside the production area. For the purposes of this form, the terms crop year and fiscal year are synonymous. The Council reviewed the revised reporting form at its April 17, 2018, meeting and affirmed that the new language met their original intent.

The Council believes these revised reporting requirements are necessary to provide accurate reports to the industry regarding average price paid, yield for shelled pecans, and to meet requirements under the Order. The industry would use this information to complement the information provided by NASS in the development of its marketing policy and to collect accurate data to determine if the definition of weight in § 986.43 needs to be amended.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 2,500 growers of pecans in the production area and approximately 250 handlers subject to regulation under the Order. Small agricultural growers are defined by the Small Business Administration as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to information from NASS, the average grower price for pecans during the 2016–2017 season was $2.59 per pound and 269 million pounds were utilized. The value for pecans that year totaled $697 million ($2.59 per pound multiplied by 269 million pounds). Taking the total value of production for pecans and dividing it by the total number of pecan growers provides an average return per grower of $278,684. Using the average price and utilization information, and assuming a normal distribution among growers, the majority of growers receive less than $750,000 annually.

Evidence presented at the formal rulemaking hearing indicates an average handler margin of $0.58 per pound. Adding this margin to the average grower price of $2.59 per pound of inshell pecans results in an estimated handler price of $3.17 per pound. With a total 2017 production of 269 million pounds, the total value of production in 2017 was $853 million ($3.17 per pound multiplied by 269 million pounds). Taking the total value of production for pecans and dividing it by the total number of pecan handlers provides an average return per handler of $3.4 million. Using this estimated price, the utilization volume, number of handlers, and assuming a normal distribution among handlers, the majority of handlers have annual receipts of less than $7,500,000. Thus, the majority of growers and handlers regulated under the Order may be classified as small entities.

This proposed rule would revise the reporting requirements in § 986.175. This action would require all pecan handlers to report to the Council the average handler price paid and average shelled pecan yield as part of its existing year-end report. This information would be used by the Council to provide statistical reports to the industry and meet requirements under the Order. The authority for this proposal is provided in §§ 986.76 and 986.78.

It is not anticipated that this proposed rule would impose additional costs on handlers or growers, regardless of size. Council members, including those representing small businesses, indicated the average handler price paid and the average shelled pecan yield information is already recorded and maintained by handlers as a part of their daily business and the information should be readily accessible. Consequently, any additional costs associated with this change would be minimal and apply equally to all handlers.

This action should also help the industry by providing additional data on pecans handled. This information would help with marketing and planning for the industry, as well as provide important information in preparing the annual marketing policy required by the Order. This change would also assist with the development of a dataset to determine if the conversion rate for shelled to inshell pecans needs to be revised. The benefits of this rule are expected to be equally available to all pecan growers and handlers, regardless of their size.

The Council discussed other alternatives to this proposed action, including making no changes to the current reporting requirements. However, having the information on handler price paid and shelled pecan yield would provide important information for the industry.

Another alternative considered was to create a new report for the collection of this information. However, the industry recently implemented a series of monthly reports that increased the reporting burden on handlers. Rather than add to the burden by creating a new report, the Council believed it would be more efficient to ask handlers for this information as part of the existing year-end reporting requirement. Therefore, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0291 ''Federal Marketing Order for Pecans.'' This proposed rule would require changes to the Council's existing APC Form 7. However, the changes are minor and the currently approved burden for the form should not be altered by the proposed changes to the form. The revised form has been submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS is committed to complying with the E-Government Act, 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.

Further, the Council's meetings were widely publicized throughout the pecan industry and all interested persons were invited to attend the meetings and participate in Council deliberations on all issues. Additionally, the Council's Committee meetings held on January 24, 2018, and April 17, 2018, were also public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this proposed action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 986

Marketing agreements, Nuts, Pecans, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 986 is proposed to be amended as follows:

PART 986—PECANS GROWN IN THE STATES OF ALABAMA, ARKANSAS, ARIZONA, CALIFORNIA, FLORIDA, GEORGIA, KANSAS, LOUISIANA, MISSOURI, MISSISSIPPI, NORTH CAROLINA, NEW MEXICO, OKLAHOMA, SOUTH CAROLINA, AND TEXAS

■ 1. The authority citation for 7 CFR part 986 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 986.175 is amended by revising paragraphs (a) introductory text, (a)(7) and (8), and adding paragraphs (a)(9) and (10) to read as follows:

§ 986.175 Handler inventory.

(a) Handlers shall submit to the Council a year end inventory report following August 31 each fiscal year. Handlers shall file such reports by September 10. Should September 10 fall on a weekend, reports are due by the first business day following September 10. Such reports shall be reported to the Council on APC Form 7. For the purposes of this form, ''crop year'' is the same as the ''fiscal year.'' The report shall include:

* * * * *

(7) Total weight and type of domestic pecans handled for the fiscal year;

(8) Total assessments owed, assessments paid to date, and remaining assessments due to be paid by the due date of the year-end inventory report for the fiscal year;

(9) The average price paid for all inshell pecans purchased during the fiscal year regardless of how the pecans are handled, including pecans from outside the production area; and

(10) The average yield of shelled pecans per pound of inshell pecans shelled during the fiscal year.

Dated: October 3, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–21841 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[Docket No. PRM–2–15; NRC–2015–0264]

Agency Procedures for Responding to Adverse Court Decisions and Addressing Funding Shortfalls

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM) submitted on October 22, 2015, by Jeffrey M. Skov (the petitioner), and supplemented on December 7, 2015, March 1, 2016, March 21, 2016, and March 1, 2017. The petition was docketed by the NRC on November 10, 2015, and was assigned Docket No. PRM–2–15. The petitioner requests that the NRC amend its rules of practice to establish procedures for responding to adverse court decisions and to annually report to the public each instance where the NRC does not receive ''sufficient funds reasonably necessary to implement in good faith its statutory mandates.'' The NRC is denying the petition because the petitioner has not identified shortcomings in the NRC's current regulations or demonstrated a need for the requested changes.

DATES: The docket for the petition for rulemaking, PRM–2–15, is closed on October 9, 2018.

ADDRESSES: Please refer to Docket ID NRC–2015–0264 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 *http://www.regulations.gov* and search for Docket ID NRC–2015–0264. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@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 *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 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 the **SUPPLEMENTARY INFORMATION** section. The petition is available in ADAMS under Accession No. ML15314A075.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Olivia Mikula, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone: 301–287–9107; email: *Olivia.Mikula@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. The Petition

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Petition for rulemaking—requirements for filing,'' provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. The NRC received a PRM from Mr. Jeffrey M. Skov on October 22, 2015, and supplemental information from the petitioner on December 7, 2015 (ADAMS Accession No. ML15342A005), March 1, 2016 (ADAMS Accession No. ML16063A026), March 21, 2016 (ADAMS Accession No. ML16082A020), and March 1, 2017 (ADAMS Accession Nos. ML17111A673 and ML17111A657). In the PRM and associated supplements, the petitioner requests that the NRC amend 10 CFR part 2, ''Agency rules of practice and procedure,'' to establish procedures for (1) responding to adverse court decisions, and (2) annually reporting to the public each instance where the NRC does not receive sufficient funds reasonably necessary to implement in good faith its statutory mandates.

In his PRM, the petitioner raises concerns about the NRC's independence, its mission-related functions, and its commitment to transparency in light of the adverse decision *In re Aiken County. See In re Aiken Cty.,* 725 F.3d 255 (D.C. Cir. 2013). In that case, a group of individuals and government organizations filed a petition for writ of mandamus against the NRC in the U.S. Court of Appeals for the District of Columbia Circuit. The *Aiken County* petitioners challenged the NRC's decision to cease review and consideration of the license application filed by the U.S. Department of Energy (DOE) to construct a geologic repository at Yucca Mountain, Nevada, and claimed that this decision constituted agency action that was unlawfully withheld or unreasonably delayed. In August 2013, the court issued a decision granting the petition for writ of mandamus and concluding that the NRC was ''defying a law enacted by Congress, and . . . doing so without any legal basis.'' *Id.* The court directed the NRC to continue the proceeding and to make whatever progress it could with the remaining funds. According to Mr. Skov, the *Aiken County* decision raises concerns about the NRC's independence, its mission-related functions, and its commitment to transparency.

Mr. Skov's PRM proposes two rules. The first proposed rule would require the NRC to take certain actions following the receipt of a court decision (and after the expiration of rehearing and appeal rights) finding that the agency violated applicable law. Specifically, the rule would require (1) an identification and determination of the causes of each violation; (2) an ''extent of condition'' evaluation to determine whether the NRC's implementation of other statutes and regulations is similarly affected by the violation; (3) implementation of immediate corrective actions based on the evaluation performed; (4) implementation of corrective actions to prevent recurrence; and (5) preparation of a public report documenting the agency's review. The rule also would require the NRC to seek investigation by the U.S. Department of Justice (DOJ) as to whether the agency has adequate oversight mechanisms in place to prevent the violation of applicable laws and whether any violations of Federal criminal laws have occurred (particularly laws prohibiting obstruction of Federal proceedings and conspiracies to commit offense or to defraud the United States). In addition, the rule would require the NRC to decide whether to appeal or seek rehearing in accordance with the American Bar Association's (ABA) Model Rules of Professional Conduct.

The second proposed rule would require the NRC to disclose annually ''each instance where [the NRC] does not receive sufficient funds reasonably necessary to implement in good faith its statutory mandates.'' In these instances, the proposed rule would have the NRC publicly disclose whether the NRC was directed not to request funds, requested funds but did not receive them, or determined on its own not to request funds. Further, the rule would require ''a discussion of the consequences of each instance with respect to (1) public safety and health; (2) environmental protection; (3) the common defense and security; (4) the reputation/credibility of the agency as a 'trusted, independent, transparent, and effective nuclear regulator;' and (5) collateral fiscal impacts.''

On February 17, 2016 (81 FR 8021), the NRC published a notice of docketing of PRM–2–15. The NRC elected not to request public comment on PRM–2–15 because the petition was sufficiently

comprehensive for the NRC to address the issues contained therein. Accordingly, there were no public comments on this petition.

II. Reasons for Denial

In the original petition and subsequent submittals, the petitioner focuses on the outcome of the *Aiken County* decision and perceived agency inaction with regard to the court's ruling. As discussed further, the NRC is denying the petition because the petitioner has not identified shortcomings in the NRC's current regulations or demonstrated a need for the proposed requirements. The NRC took into account the § 2.803(h)(1) considerations for an agency determination on a petition for rulemaking with particular attention to § 2.803(h)(1)(vi), relevant agency policies and current practice.

The NRC is denying further consideration of the petitioner's first proposed rule because it does not present a practical process for agency accountability and because the NRC already has the tools in place to provide for independent evaluation of agency actions. The petitioner's proposed rule presents the goal of requiring the agency to reflect upon the reasons for a loss it has sustained in court and to implement corrective actions in light of any lessons learned. However, for the reasons discussed below, the proposed rule is neither necessary nor appropriate for meeting this goal.

With regard to the trigger for the proposed rule—a finding by a court of competent jurisdiction that the NRC violated applicable law—adverse court decisions that relate to the NRC's licensing responsibilities do not necessarily reflect misconduct. Rather, the NRC's losses ordinarily have involved a failure to explain the basis for a technical conclusion,[1] a request for further development of the administrative record,[2] or a court's determination that the legal position that the NRC has adopted on a point of law is incorrect.[3] In such circumstances, the NRC's response to judicial direction is transparent so that the public is able to see how the agency has addressed the concerns in the decision.[4] Indeed, after the *Aiken County* decision was rendered by the D.C. Circuit Court of Appeals, the Commission responded by soliciting the views of all participants involved and issuing an order detailing how the agency would continue with the licensing process. *See U.S. Department of Energy* (High-Level Waste Repository), CLI–13–08, 78 NRC 219 (2013). This included a direction to staff to complete and issue the Safety Evaluation Report associated with the construction authorization application and make associated documents available on the NRC's recordkeeping system.

Moreover, the vast majority of NRC licensing cases that result in Federal court litigation have already been the subject of litigation before the Atomic Safety and Licensing Boards and the Commission, such that opportunities to identify deficiencies have been provided through the Commission's internal adjudicatory process. Further, the Agency's Office of the General Counsel (OGC) ensures that the Commission and pertinent staff offices are informed of court decisions and the need for any responsive action to ensure compliance with the holding. In addition, OGC will provide advice on the impact, if any, of that decision on any current and future NRC decisionmaking. Given these facts, the additional processes in the proposed rule are not necessary.

In addition, the petitioner's proposed rule would require an independent evaluation of agency action in light of an adverse court decision. The NRC's Office of the Inspector General, however, already has the authority to perform that function. The Inspector General (IG) is authorized ''to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of'' the agency in which the office is established. *See* 5 United States Code (U.S.C.) App 3, section 4(a)(1). This responsibility includes reporting ''to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.'' *See id.* section 4(d). The IG prepares a semiannual report to Congress which includes ''a description of significant problems, abuses, and deficiencies relating to the administration of programs'' and agency operations. *See id.* section 5(a)(1). Notably, this report includes ''a description of the recommendations for corrective action made by the [Office of the Inspector General] during the reporting periods with respect to significant problems, abuses, or deficiencies.'' *See id.* section 5(a)(2).[5] The IG may initiate an investigation upon the request of an employee or member of the public. Although investigation by the IG is not necessarily precipitated by a specific event, the duties and abilities of the IG provide the authority and flexibility to investigate a wide range of agency action. Therefore, the proposed rule essentially requests the creation of a process of independent investigation that is duplicative of the one that already exists.[6]

Similarly, the proposal to seek DOJ review of an adverse decision is not necessary because the DOJ is a party to, or has some involvement in, virtually all of the program-related cases in which the agency is named as a defendant. The Hobbs Act, which is the primary vehicle through which NRC decisions are challenged, requires that the United States be named as a respondent. *See* 28 U.S.C. 2344. And although the Hobbs Act did not apply to, and the United States was not named as a respondent in, the *Aiken County* proceeding, the NRC consulted with the DOJ in its defense of the case. Moreover, the court specifically requested the views of the United States on several issues, and the United States filed its own brief in response to the court's request. Finally, to the extent the agency is sued directly in Federal district court, it is represented by the DOJ both on

[1] *See, e.g. Shieldalloy Metallurgical Corp.* v. *NRC,* 707 F.3d 371 (D.C. Cir. 2013); *Honeywell International, Inc.* v. *NRC,* 628 F.3d 568 (D.C. Cir. 2010).

[2] *See, e.g., Brodsky* v. *NRC,* 704 F.3d 113 (2d Cir. 2013).

[3] *See, e.g., San Luis Obispo Mothers for Peace* v. *NRC,* 449 F.3d 1016 (9th Cir. 2006).

[4] *See, e.g. Shieldalloy Metallurgical Corp.* (Decommissioning of the Newfield, New Jersey Site), CLI–13–06, 78 NRC 155 (2013); *Honeywell Int'l, Inc.* (Metropolis Works Uranium Conversion Facility), CLI–13–01, 77 NRC 1 (2013); Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit 3, Draft Environmental Assessment and Finding of No Significant Impact, 78 FR 20144 (April 3, 2013); *Pacific Gas & Electric Co.* (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), CLI–07–11, 65 NRC 148 (2007).

[5] Office of the Inspector General reports and associated corrective action recommendations for the NRC are available on the public website. *See* U.S. NRC, *OIG Reports,* available at *https://www.nrc.gov/reading-rm/doc-collections/insp-gen/* (last updated October 19, 2017).

[6] In additional submissions to the NRC, the petitioner emphasized the same or similar arguments for the implementation of the proposed rules. His March 1, 2017, submission notes that the IG's Office did not prevent the statutory violation that led to the *Aiken County* proceeding. However, there is little explanation as to why the implementation of a process that essentially duplicates that of the independent investigative authority of the Office of the Inspector General would serve to effectively and efficiently eliminate the possibility of a violation in the future. Indeed, the IG opened a report to investigate wrongdoing associated with the NRC's decision to halt progress on DOE's Yucca Mountain application and the *Aiken County* court was aware of the findings. *See In re Aiken Cty.,* 725 F.3d at 268 (Randolph, J., concurring) (citing U.S. Nuclear Regulatory Commission, Office of the Inspector General, OIG Case NO. 11–05, NRC Chairman's Unilateral Decision to Terminate NRC's Review of DOE Yucca Mountain Repository License Application 7–10, 17, 44–46 (2011)).

programmatic matters as well as matters involving agency personnel or procurement. *See, e.g., Brodsky* v. *NRC,* No. 09–Civ–10594 (LAP), 2015 WL 1623824 (S.D.N.Y. Feb. 26, 2015); *Khoury* v. *Meserve,* 268 F. Supp. 2d 600 (D. Md. 2003). Consequently, the DOJ was well aware of the NRC's filings in the *Aiken County* case specifically and is deeply involved in the NRC's litigation matters generally.

With respect to the codification of the need to make appeals and rehearing decisions in accordance with the Model Rules of Professional Conduct, each NRC attorney is already subject to the disciplinary rules of the bar in which he or she is admitted as well as the courts in which he or she appears. All decisions to seek further review of an adverse ruling are coordinated with the DOJ and, as necessary, the Solicitor General, who are likewise bound by applicable disciplinary rules. It is therefore not necessary to reference the ABA's Model Rules of Professional Conduct in the NRC's regulations.

The NRC therefore denies further consideration of the petitioner's first proposed rule for the reasons stated.

The NRC is denying further consideration of the petitioner's second proposed rule because it is the NRC's practice to refrain from disclosing pre-decisional budgetary information, consistent with Office of Management and Budget (OMB) guidance. OMB Circular A–11 directs agencies to withhold pre-decisional materials underlying budget deliberations. *See* OMB Circular A–11, *Preparation, Submission, and Execution of the Budget,* 22–1 (July 2016). Circular A–11 directs agencies ''not [to] release agency justifications provided to OMB and any agency future year plans or long-range estimates to anyone outside of the Executive Branch'' unless otherwise allowed under the Circular. Communications within the Executive Branch that ultimately lead to the President's budgetary decisions are not disclosed either by the NRC or by OMB. The petitioner's proposed rule would require the NRC to disclose annually certain budget decisions and the Executive Branch communications underlying those decisions. On the basis of our practice of compliance with OMB guidance, the NRC will not proceed with the petitioner's proposed rule.

The arguments presented by the petitioner focus heavily on the outcome and safety consequences of the *Aiken County* decision, but they fail to justify the need for additional processes in the NRC's regulations. In light of the processes currently in place, the NRC did not identify any safety, environmental, or security issues associated with the petitioner's concerns. Further, the NRC continues to be committed to its safety mission and to promoting a positive safety culture.[7]

With regard to the petitioner's concerns about agency inaction with respect to Yucca Mountain, the NRC has used virtually all of the remaining funds appropriated through fiscal year 2011 by Congress for the Yucca Mountain project to further review the application, consistent with the *Aiken County* decision and the Commission's Order in response to the case. Among other things, the NRC staff completed the Safety Evaluation Report and a Final Supplement to DOE's Environmental Impact Statement for the Yucca Mountain geologic repository. The NRC staff also placed millions of items of discovery material from the adjudicatory proceeding relating to the application in the public portion of the agency's online records collection.

III. Conclusion

For the reasons stated in Section II, the NRC is denying PRM–2–15. The petition failed to identify a need for the proposed rules. Further, the NRC evaluated the petition in light of the considerations described in § 2.803(h)(1) and found the petition inconsistent with current agency policies and practice.

Dated at Rockville, Maryland, this 2nd day of October 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2018–21804 Filed 10–5–18; 8:45 am]

BILLING CODE 7590–01–P

[7] The NRC has processes to self-assess and promote the safety culture of the agency. In conjunction with the IG's Office, the NRC participates in a safety culture climate survey to evaluate the comfort of the agency's workforce to raise safety concerns through these processes. The IG's Office appraises the outcome of these surveys in reports and provides corrective action recommendations, where appropriate. The most recent IG report on this topic was released on April 15, 2016. *See* U.S. NRC, *OIG Reports,* available at *https://www.nrc.gov/reading-rm/doc-collections/insp-gen/* (last updated October 19, 2017).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2018–0860]

Proposed Primary Category Design Standards; Vertical Aviation Technologies (VAT) Model S–52L Rotorcraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice shortening comment period.

SUMMARY: This action shortens the comment period for the notice of availability; request for comments that was published on September 26, 2018. In that document, the FAA announced the existence of and requested comments on the proposed airworthiness design standards for acceptance of the Vertical Aviation Technologies (VAT) Model S–52L rotorcraft under the regulations for primary category aircraft.

DATES: The comment period for the document published September 26, 2018, at 83 FR 48574, is shortened. Comments must be received on or before October 26, 2018.

ADDRESSES: Send comments to the Federal Aviation Administration, Policy and Innovation Division, Rotorcraft Standards Branch, AIR–681, Attention: Michael Hughlett, 10101 Hillwood Parkway, Ft. Worth, Texas 76117. Comments may also be emailed to: *Michael.Hughlett@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hughlett, Aviation Safety Engineer, Rotorcraft Standards Branch, Policy and Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, Texas 76177; telephone (817) 222–5110; email *Michael.Hughlett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested parties to submit comments on the proposed airworthiness standards to the address specified above. Commenters must identify the VAT Model S–52L on all submitted correspondence. The most helpful comments reference a specific portion of the airworthiness standards, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received on or before the closing date before issuing the final acceptance. We will consider comments filed late if it is possible to do so without incurring expense or delay. We

may change the proposed airworthiness standards based on received comments.

Background

On September 26, 2018, the FAA issued a notice of availability; request for comments, entitled ''Proposed Primary Category Design Standards; Vertical Aviation Technologies (VAT) Model S–52L Rotorcraft'' (83 FR 48574) (''notice of availability''). The notice of availability established a 60-day comment period.

The FAA finds that a 30-day comment period is sufficient for the public to analyze and provide meaningful comment to notice of availability. The date by which to file comments is therefore shortened from November 26, 2018, to October 26, 2018. The FAA does not anticipate any further action to be taken regarding this comment period.

Shortening of Comment Period

Accordingly, the comment period for the notice of availability has been shortened to close on October 26, 2018.

Issued in Ft Worth, Texas, on September 27, 2018.

Jorge Castillo,

Acting Manager, Rotorcraft Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–21661 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0809; Product Identifier 2018–NM–092–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Model FALCON 2000 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 2000 airplanes. This proposed AD was prompted by a report of chafing of a wire bundle located at the bottom of the right hand electrical cabinet. This proposed AD would require a one-time general visual inspection of the wiring bundle for damage, measurement of the clearance between the metallic plate and the wiring bundle, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 23, 2018.

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

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

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0809; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0809; Product Identifier 2018–NM–092–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0114, dated May 23, 2018, (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Dassault Aviation Model FALCON 2000 airplanes. The MCAI states:

> One Falcon 2000 aeroplane experienced some chafing of a wire bundle located at the bottom of the right-hand (RH) electrical cabinet (between Frames 4 and 5). The wire loom interfered with a metallic (ground) plate of terminal strip 700J and at least 12 wires were damaged. This wire loom includes 250 wires and in case of chafing, any wire may be damaged.
>
> This condition, if not detected and corrected, could lead to improper functioning of aeroplane systems [such as loss of wing anti-icing or wing anti-icing inoperative indication, loss of normal braking indication, and loss of ''No take-off'' indication], possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Dassault developed a modification M3889 to improve the clearance between the metallic plate and the wire loom, and published the SB [Dassault Aviation Service Bulletin F2000–436] to inspect and modify aeroplanes in service.
>
> For the reasons described above, this [EASA] AD requires a one-time inspection of the wiring bundle for interference or damage, measurement of the clearance between the metallic plate and the wiring bundle, and depending on findings, modification of the aeroplane by cutting out the lower part of the ground plate of terminal strip 700J and adding an edge protection to prevent interference. Aeroplanes that do not have a metallic plate installed are not affected by this [EASA] AD.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0809.

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Service Bulletin F2000–436, dated September 28, 2017. This service information

describes procedures for a one-time general visual inspection of the wiring bundle for damage (including chafing), measurement of the clearance between the metallic plate and the wiring bundle, and corrective actions. Corrective actions include modification of the airplane by cutting out the lower part of the ground plate of terminal strip 700J and adding an edge protection to prevent interference and replacement of damaged wires. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 195 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$0	$340	$66,300

We estimate the following costs to do the necessary on-condition action that would be required based on the results of any required actions. We have no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost *	Cost per product
2 work-hours × $85 per hour = $170	$0	$170

* We have received no definitive data for the parts cost for the on-condition actions.

Authority for This Rulemaking

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2018–0809; Product Identifier 2018–NM–092–AD.

(a) Comments Due Date

We must receive comments by November 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000, certificated in any category, manufacturer serial numbers 70 through 231 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Reason

This AD was prompted by a report of chafing of a wire bundle located at the bottom of the right hand (RH) electrical cabinet. We are issuing this AD to address such chafing, which may cause damage to wires within the bundle, and, if not detected and corrected, could lead to improper functioning of airplane systems (such as loss of wing anti-icing or wing anti-icing inoperative indication, loss of normal braking indication, and loss of ''No take-off'' indication), which could result in reduced control of the airplane.

(f) Compliance

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

(g) Inspection

Within 25 months after the effective date of this AD, for airplanes equipped with a metallic plate at the bottom of the RH electrical cabinet, do the following actions as specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Perform a general visual inspection of the wiring bundle for damage (including chafing), in accordance with the Accomplishment Instructions of Dassault Aviation Service Bulletin F2000–436, dated September 28, 2017.

(2) Measure the clearance between the metallic plate and the wire bundle at the bottom of the RH electrical cabinet in accordance with the Accomplishment Instructions of Dassault Aviation Service Bulletin F2000–436, dated September 28, 2017.

(h) Corrective Action

(1) If, during the inspection required by paragraph (g)(1) of this AD, any damage is found, before further flight, replace all damaged wires using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(2) If, during the measurement as required by paragraph (g)(2) of this AD, the detected clearance is less than the criteria as specified in Dassault Aviation Service Bulletin F2000–436, dated September 28, 2017, before further flight, modify the metallic plate in accordance with the Accomplishment Instructions of Dassault Aviation Service Bulletin F2000–436, dated September 28, 2017.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Dassault Aviation's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0114, dated May 23, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0809.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on September 26, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21609 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0805; Product Identifier 2018–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Defense and Space S.A. Model CN–235, CN–235–200 and CN–235–300 airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 23, 2018.

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

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

For service information identified in this NPRM, contact Airbus Defense and Space, Services/Engineering support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone: +34 91 585 55 84; fax: +34 91 585 31 27; email: *MTA.TechnicalService@airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0805; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0805; Product Identifier 2018–NM–103–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0134, dated June 25, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Defense and Space S.A. Model CN–235, CN–235–200, and CN–235–300 airplanes. The MCAI states:

> The airworthiness limitations and/or certification maintenance instructions for the EADS–CASA CN–235 aeroplanes, which are approved by EASA, are currently defined and published in the Airbus D&S CN–235 ALL [Airworthiness Limitations List] DT–86–3001 document. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition [*i.e.,* fatigue cracking, damage, and corrosion in principal structural elements, which could result in reduced structural integrity of the airplane].
>
> For the reason described above, this [EASA] AD requires accomplishment of the actions specified in the ALL.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0805.

Related Service Information Under 1 CFR Part 51

Airbus Defence and Space has issued CN–235 Airworthiness Limitations List, DT–86–3001, Issue R, dated March 20, 2018. This service information describes airworthiness limitations for airplane systems, structural inspections, safe life structural items, and safe life system items. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this proposed AD.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the airworthiness limitations section (ALS) inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Airworthiness Limitations Based on Type Design

The FAA recently became aware of an issue related to the applicability of ADs that require incorporation of an ALS revision into an operator's maintenance or inspection program.

Typically, when these types of ADs are issued by civil aviation authorities of other countries, they apply to all airplanes covered under an identified type certificate (TC). The corresponding FAA AD typically retains applicability to all of those airplanes.

In addition, U.S. operators must operate their airplanes in an airworthy condition, in accordance with 14 CFR 91.7(a). Included in this obligation is the requirement to perform any maintenance or inspections specified in the ALS, and in accordance with the ALS as specified in 14 CFR 43.16 and 91.403(c), unless an alternative has been approved by the FAA.

When a type certificate is issued for a type design, the specific ALS, including revisions, is a part of that type design, as specified in 14 CFR 21.31(c).

The sum effect of these operational and maintenance requirements is an obligation to comply with the ALS defined in the type design referenced in the manufacturer's conformity statement. This obligation may introduce a conflict with an AD that requires a specific ALS revision if new airplanes are delivered with a later revision as part of their type design.

To address this conflict, the FAA has approved alternative methods of compliance (AMOCs) that allow operators to incorporate the most recent ALS revision into their maintenance/inspection programs, in lieu of the ALS revision required by the AD. This eliminates the conflict and enables the operator to comply with both the AD and the type design.

However, compliance with AMOCs is normally optional, and we recently became aware that some operators choose to retain the AD-mandated ALS revision in their fleet-wide maintenance/inspection programs, including those for new airplanes delivered with later ALS revisions, to help standardize the maintenance of the fleet. To ensure that operators comply with the applicable ALS revision for newly delivered airplanes containing a later revision than that specified in an AD, we plan to limit the applicability of ADs that mandate ALS revisions to those airplanes that are subject to an earlier revision of the ALS, either as part of the type design or as mandated by an earlier AD.

This proposed AD therefore would apply to Model CN–235, CN–235–200 and CN–235–300 airplanes with an original certificate of airworthiness or original export certificate of airworthiness that was issued on or before the date of the ALS revision identified in this proposed AD. Operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued after that date must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet.

Costs of Compliance

We estimate that this proposed AD affects 9 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour)

Authority for This Rulemaking

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

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

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Docket No. FAA–2018–0805; Product Identifier 2018–NM–103–AD.

(a) Comments Due Date

We must receive comments by November 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–200, and CN–235–300 airplanes, all manufacturer serial numbers, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before March 20, 2018. This AD does not apply to Model CN–235–300 airplanes in a Maritime Patrol (SM01) configuration.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. We are issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements; such fatigue cracking, damage, and corrosion could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Airbus Defence and Space CN–235 Airworthiness Limitations List, DT–86–3001, Issue R, dated March 20, 2018. The initial compliance times for doing the tasks are at the applicable times specified in Airbus Defence and Space CN–235 Airworthiness Limitations List, DT–86–3001, Issue R, dated March 20, 2018, or within 90 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

After accomplishment of the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0134, dated June 25, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0805.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

(3) For service information identified in this AD, Airbus Defense and Space, Services/Engineering support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone: +34 91 585 55 84; fax: +34 91 585 31 27; email: *MTA.TechnicalService@airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on September 19, 2018.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–21608 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1130

[Docket No. CPSC–2018–0018]

Amendment to Requirements for Consumer Registration of Durable Infant or Toddler Products

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: In 2009, the Consumer Product Safety Commission (CPSC) fulfilled a statutory requirement in the Consumer Product Safety Improvement Act of 2008 (CPSIA) to issue a rule requiring manufacturers of durable infant or toddler products to establish a consumer registration program. The Commission now proposes to amend the definition of ''durable infant or toddler product'' in the rule to include the full statutory definition; clarify that the scope of each listed product category is further defined in the applicable mandatory standard; clarify listed product categories using the product name in the applicable mandatory standard; and clarify the scope of the infant carriers and bassinets and cradles product categories.

DATES: Submit comments by December 24, 2018.

ADDRESSES: Comments, identified by Docket No. CPSC–2018–0018, may be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. CPSC does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit electronically any confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to provide such information, please submit it in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2018–0018, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Hope EJ Nesteruk, Project Manager, Children's Program Manager, Division of Mechanical and Combustion Engineering, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2579; email: *HNesteruk@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) is the Danny Keysar Child Product Safety Notification Act. Section 104 of the CPSIA requires that for ''durable infant or toddler products,'' the U.S. Consumer Product Safety Commission (CPSC) must (1) issue a mandatory rule for each product based on the applicable voluntary standard, and (2) issue a rule requiring consumer registration for such products. 15 U.S.C. 2056a(b) and (d).[1] In 2009, the Commission issued a regulation to implement the second requirement, that manufacturers provide a means for consumers to register ''durable infant or toddler products,'' so that consumers can receive direct notification in the event of a product recall. The rule is codified at 16 CFR part 1130, Requirements for Consumer Registration of Durable Infant or Toddler Products (''part 1130'' or the ''consumer registration rule'').

The two aspects of section 104, consumer registration and product standards, are both based on the definition of ''durable infant or toddler product'' set forth in section 104(f) of the CPSIA: ''durable products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.'' The statute lists 12 product categories included within the definition, such as cribs, toddler beds, high chairs, strollers, and swings. In a

[1] Since 2009, the Commission has issued final rules for 22 durable infant or toddler products, and issued one proposed rule for Inclined Infant Sleep Products that has not yet been finalized. Mandatory standards for durable infant or toddler products are codified in 16 CFR parts 1215 through 1235, and part 1237. Part 1236 is reserved for Inclined Infant Sleep Products.

2009 rulemaking, the Commission explained that the list of products in section 104(f), and codified in the Commission's consumer registration rule in 16 CFR 1130.2, is not static. At that time, the Commission added six product categories to the 12 listed in the CPSIA. 74 FR 68668, 68669 (Dec. 29, 2009).

The Commission proposes to make the following changes to part 1130 to clarify the products the rule covers:

- State the full statutory definition of ''durable infant or toddler product'' in section 104(f)(1);
- Specify that the listed product categories are further defined in the applicable mandatory standards;
- List ''sling carriers,'' ''soft infant and toddler carriers,'' ''handheld infant carriers,'' and ''frame child carriers'' as a subset of infant carriers, to avoid confusion regarding whether they are subject to the consumer registration rule and to reflect each product category using the name of the applicable mandatory standard;
- Clarify that ''bedside sleepers'' are a subset of bassinets, to avoid confusion regarding whether they are subject to the consumer registration rule and to reflect the product name used in the mandatory standard; and
- Revise the term ''changing tables'' to ''baby changing products,'' to reflect the product name used in the mandatory standard.

This proposed rule is based on a briefing package CPSC staff provided to the Commission on September 26, 2018, Notice of Proposed Rulemaking: Updates to 16 CFR part 1130, Consumer Registration of Durable Infant or Toddler Products (Staff Briefing Package).[2]

II. Description of the Proposed Rule

A. Definition

The Commission proposes to update the definition of ''durable infant or toddler product'' in 16 CFR 1130.2(a) to state the full statutory definition of ''durable infant or toddler product'' and to clarify that the scope of the product categories listed can be found in the applicable mandatory standard. Section 104(f) of the CPSIA defines the term ''durable infant or toddler product'' as ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years,'' and states that the definition ''includes'' 12 categories of products:

(A) full-size cribs and nonfull-size cribs;
(B) toddler beds;
(C) high chairs; booster chairs, and hook-on-chairs;
(D) bath seats;
(E) gates and other enclosures for confining a child;
(F) play yards;
(G) stationary activity centers;
(H) infant carriers;
(I) strollers;
(J) walkers;
(K) swings; and
(L) bassinets and cradles.

When the Commission finalized the consumer registration rule in 2009, the Commission listed the 12 statutory product categories, as well as six additional product categories the Commission determined fell within the scope of a ''durable infant or toddler product'': Children's folding chairs, changing tables, infant bouncers, infant bathtubs, bed rails, and infant slings. 74 FR at 68669–70. However, the rule did not repeat the statutory phrase: ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.'' Thus, currently one must look at both section 104(f) of the CPSIA and 16 CFR 1130.2 of the regulation to understand the full definition of ''durable infant or toddler product.''

B. Product Categories

Since 2009, as the Commission has issued mandatory rules for the durable infant or toddler products, occasionally the name of the product category in the defined list does not match the name of the product category covered by a mandatory standard, or the scope of the products covered within a product category may be unclear. To clarify the product categories subject to the consumer registration rule, the Commission proposes to list in the rule the name of each product category that aligns with the name of the product category used in the applicable voluntary or mandatory standard.[3] Further, to provide information on the scope of the products covered by a product category, the Commission proposes to state in the rule that the scope of the product category is further defined in the applicable mandatory standard.

1. Infant Carriers

Section 104(f)(H) of the CPSIA lists ''infant carriers'' as a product category included in the term ''durable infant or toddler products.'' However, ASTM international has four separate voluntary standards for infant carriers, and the Commission has now issued four separate mandatory standards, one for each subtype of infant carrier:

- 16 CFR 1225, Hand-Held Infant Carriers
- 16 CFR 1226, Soft Infant and Toddler Carriers
- 16 CFR 1228, Sling Carriers
- 16 CFR 1230, Frame Child Carriers

Although the Commission added ''Infant Slings'' to the list of products in 16 CFR 1130.2(a) when finalizing the 2009 consumer registration rule, the registration rule does not list the other sub-categories of infant carriers. To clarify that all four types of infant carriers are subject to the consumer registration requirement, the Commission proposes to list each type of infant carrier in § 1130.2(a)(8) as a subset of the infant carrier category, using the name in the applicable mandatory standard.

Accordingly, the Commission proposes to revise § 1130.2(a)(8), which currently states ''Infant carriers,'' to state: ''Infant carriers, including soft infant and toddler carriers, hand-held infant carriers, sling carriers, and frame child carriers.'' The Commission also proposes to delete ''infant slings'' as a separate product category in § 1130.2(a)(18), and to change the product name from ''infant slings'' to ''sling carriers'' in the revised § 1130.2(a)(8), to align with the name of the mandatory rule in part 1228. Thus, the proposed language retains the statutorily-defined category of ''infant carrier'' while clarifying the four types of infant carriers subject to part 1130.

2. Bedside Sleepers

Currently, the product ''bedside sleepers''[4] is not listed in part 1130. However, when the Commission issued a mandatory rule pursuant to section 104(b) of the CPSIA (codified at 16 CFR part 1222) for bedside sleepers, the Commission considered bedside sleepers to be a subset of ''bassinets and cradles.'' In fact, the bedside sleeper voluntary standard, ASTM F2906,

[2] Staff Briefing Package available at: *https://www.cpsc.gov/s3fs-public/NPR%20-%20Amendment%20to%20Requirements%20for%20Consumer%20Registration%20Durable%20Infant%20or%20Toddler%20Products%20-%20September%2026%202018.pdf?mYkYTfNkAYZ9KDgLEmbA.Mv5s.4P9UqW.*

[3] Some products may be listed in part 1130 before the Commission issues the corresponding mandatory standard. In those cases, the Commission will list the product category as defined in the current voluntary standard, which typically provides specificity about the scope of the product category.

[4] A bedside sleeper is a bassinet-type product, intended to provide a sleeping environment for an infant up to approximately 5 months of age, or when a child begins to push up on his or her hands and knees, whichever comes first. These products are designed to be secured to an adult bed, for the purpose of having a baby sleep in close proximity to an adult.

requires testing to ASTM F2194, *Standard Consumer Safety Specification for Bassinets and Cradles,* as the fundamental safety requirement for bedside sleepers. 79 FR 2581, 2583 (Jan. 15, 2014).

Many bedside sleepers on the market are multi-use products that also function as play yards or stand-alone bassinets; such multi-use products are required to provide a consumer registration for their play yard or bassinet mode. However, because bedside sleepers are not specifically listed in part 1130, it may be unclear whether a stand-alone bedside sleeper, *i.e.,* without a secondary use mode, is subject to the consumer registration rule. To resolve any confusion, the Commission proposes to list ''bedside sleepers'' as a type of bassinet. Accordingly, the Commission proposes to revise § 1130.2(a)(12), which currently states: ''Bassinets and cradles,'' to state: ''Bassinets and cradles, including bedside sleepers.''

3. Changing Tables

Currently, ''changing tables'' is listed as a durable infant or toddler product in 16 CFR 1130.2(14). However, the Commission's standard for these products is called ''Safety Standard for Baby Changing Products,'' codified at 16 CFR part 1235.[5] CPSC's standard covers products that are included in the scope of the voluntary standard on which it is based, ASTM F2388–18, *Standard Consumer Safety Specification for Baby Changing Products for Domestic Use.* Accordingly, CPSC's standard includes changing tables, changing table accessories, contoured changing pads, and add-on changing units. Changing table accessories attach to another product to allow it to function as a changing table, and are typically included with the purchase of another product (*e.g.,* crib or play yard) that currently requires product registration. Contoured changing pads and add-on changing units are typically sold independently of other products requiring registration. The Commission proposes revising § 1130.2(a)(14) to change the term ''changing tables'' to ''baby changing products'' to be consistent with the Commission's mandatory standard.

III. Effective Date

The Administrative Procedure Act generally requires that the effective date of a rule be at least 30 days after publication of the final rule. This proposed rule clarifies existing product categories and expands one product category. Accordingly, the Commission proposes two effective dates.

A. Thirty-Day Effective Date

Most of the changes in this proposed rule are clarifications to the definition of ''durable infant or toddler product'' to state the full statutory definition, and to more clearly identify product categories that already are subject to the consumer registration rule (*i.e.,* the statutory definition, infant carrier list, and bedside sleepers). Because these revisions clarify the text of the rule, and do not impose new burden on any manufacturer, the Commission proposes a 30-day effective date for the addition of the statutory language in § 1130.2(a), as well as the clarifications to product categories in sections 1130.2(a)(8), (a)(11), and (a)(12).

B. Twelve-Month Effective Date

A thirty day effective date is likely insufficient for products that have not previously been required to establish a consumer registration program. In the 2009 registration rulemaking the Commission provided a 12-month effective date for the six product categories the Commission added and six months for the other aspects of the rule. The Commission's decision to allow a 12-month effective date for added product categories was based on three comments expressing concern that 6 months would be insufficient to establish a consumer registration program, and requesting a one year effective date instead.

Contoured changing pads have not previously been subject to the registration requirement. Although some manufacturers and importers of contoured changing pads likely distribute other durable infant and toddler products and would, therefore, have an established consumer registration program, the staff briefing package for the final rule for baby changing products identified 25 firms that supply only contoured changing pads to the market and no other changing products.[6] At least 13 of these firms are not otherwise in the durable infant and toddler product market; therefore, they are unlikely to have an existing consumer registration program. Accordingly, the Commission proposes a 12-month effective date for contoured changing pads. The other types of ''baby changing products,'' (changing tables, changing table accessories, and add-on changing units) have all been required to be in compliance with part 1130 since December 29, 2010 under the previously listed category ''changing tables.'' 74 FR at 68669. Therefore, the 12-month effective date would only apply to contoured changing pads.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, when a notice of proposed rulemaking is required, agencies must review the proposed rule for the rule's potential economic impact on small entities, including small businesses. Section 603 of the RFA generally requires that agencies prepare an initial regulatory flexibility analysis (IRFA) and make it available to the public for comment when the NPR is published, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number small entities. However, pursuant to section 104(d)(1) of the CPSIA, the provision that establishes the requirement for a consumer registration rule, the RFA does not apply when promulgating a rule under this provision. Consequently, the Commission has not prepared an IRFA and no certification is necessary. We note that the amendment mostly provides clarifications that would not have any economic impact. Providing a 12 month effective date for the one product that has not been subject to the registration rule, contoured changing pads, should reduce the economic impact on manufacturers of those products.

V. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions normally have ''little or no potential for affecting the human environment,'' and therefore, they do not require an environmental assessment or an environmental impact statement. 16 CFR 1021.5. This proposed rule falls within the categorical exclusion to prepare an environmental impact statement.

VI. Paperwork Reduction Act

Section 104(d)(1) of the CPSIA excludes this rulemaking from the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 through 3520. Consequently, no Paperwork Reduction Act analysis is necessary.

VII. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer

[5] The final rule for baby changing products was published June 26, 2018, and will become effective 12 months later.

[6] Available at: *https://www.cpsc.gov/s3fs-public/Final%20Rule%20-%20Safety%20Standard%20for%20Baby%20Changing%20Products%20-%20June%2013%202018.pdf.*

product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a standard or regulation that prescribes requirements for the performance, composition, contents, design, finish, construction, packaging, or labeling of such product dealing with the same risk of injury unless the state requirement is identical to the federal standard. The Commission's authority to issue this consumer registration rule is section 16(b) of the CPSA, 15 U.S.C. 2065(b). Accordingly, this rule is not a consumer product safety standard, and the preemption provision of section 26(a) of the CPSA does not apply to any final rule issued by the Commission.

List of Subjects in 16 CFR Part 1130

Administrative practice and procedure, Business and industry, Consumer protection, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Commission proposes to amend part 1130 of title 16 of the Code of Federal Regulations as follows:

PART 1130—REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS

■ 1. The authority citation for part 1130 continues to read as follows:

Authority: 15 U.S.C. 2056a, 2065(b).

■ 2. Amend § 1130.1 by revising the last sentence in paragraph (c) to read as follows:

§ 1130.1 Purpose, scope, and effective date.

* * * * *

(c) * * * Compliance with this part 1130 shall be required on [DATE THAT IS 12 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] for contoured changing pads (a type of baby changing product). The rule shall apply to durable infant or toddler products, as defined in § 1130.2(a), that are manufactured on or after those dates.

■ 3. Amend § 1130.2 by:

■ a. Revising paragraphs (a) introductory text and (a)(8), (11), (12), (14), and (17); and

■ c. Removing paragraph (a)(18).

The revision reads as follows:

(a) *Definition of Durable Infant or Toddler Product* means the following products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years. The listed product categories are further defined in the applicable standards that the Commission issues under section 104(b) of the Consumer Product Safety Improvement Act of 2008, and include products that are combinations of the following product categories:

* * * * *

(8) Infant carrier, including soft infant and toddler carriers, hand-held infant carriers, sling carriers, and frame child carriers;

* * * * *

(11) Swings;

(12) Bassinets and cradles, including bedside sleepers;

* * * * *

(14) Baby changing products;

* * * * *

(17) Bed rails.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–21865 Filed 10–5–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0843]

RIN 1625–AA00

Safety Zone; Barters Island Bridge, Back River, Barters Island, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone for the navigable waters within a 50 yard radius from the center point of the Barters Island Bridge, on the Back River, ME, approximately 4.6 miles north of the mouth of the waterway. When enforced, this proposed rulemaking would prohibit persons and vessels from being in the safety zone during bridge replacement operations unless authorized by the Captain of the Port Northern New England or a designated representative, which could pose as imminent hazard to persons and vessels operating in the area. The safety zone is necessary to protect personnel, vessels, and the marine environment from potential hazards created by the demolition, subsequent removal, and replacement of the Barters Island Bridge and a temporary bridge. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 8, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0843 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Matthew Odom, Waterways Management Division, U.S. Coast Guard Sector Northern New England, telephone 207–347–5015, email *Matthew.T.Odom@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On April 27, 2018, the Maine Department of Transportation (MEDOT) applied for a bridge construction permit for Barter's Island Bridge with the Coast Guard. On June 22, 2018, the Coast Guard issued Public Notice 1–164, published it on the USCG Navigation Center website, and solicited comments through July 23, 2018. Three comments were received in response to the public notice: One commenter requested the project be stopped if any human remains, archaeological properties or other items of historical importance are unearthed and we report the findings. A second commenter notified us this project will not affect any Penobscot cultural/historic properties or interests and had no objection. A third commenter stated that Tennessee Gas Pipeline currently does not have facilities within the area. There were no statements of objection.

On August 22, 2018, MEDOT requested by letter that the Coast Guard impose waterway restrictions on the Back River around the Barters Island Bridge between Hodgdon Island and Barters Island in Boothbay Harbor in support of the bridge improvements. The project includes the replacement of the swing span of the bridge and the existing center pier. A temporary fixed bridge will be used to maintain vehicle traffic during construction of the new bridge. The temporary fixed bridge will

reduce the vertical clearance of the channel to 6.8 feet mean high water (MHW) from approximately November 1, 2019 through May 31, 2020. On or about June 1, 2020, the new swing bridge is expected to be operating with unlimited clearance in the open position. The anticipated date for removal of the temporary bridge is August 2020. A bridge protection system and bridge lighting will be installed as part of the new bridge. Captain of the Port (COTP) Northern New England has determined that hazards associated with the bridge replacement project will be a safety concern for anyone within a 50-yard radius from the center point of the of the Barters Island bridge. It is anticipated that the Back River will be closed because of this safety zone for a total of 85 non-continuous days.

The purpose of this rulemaking is to protect personnel, vessels and the marine environment from potential hazards created during the replacement of the Barters Island Bridge, on the Back River, ME. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP Northern New England proposes to establish a safety zone from December 1, 2018 through January 31, 2021. The safety zone would cover all navigable waters within a 50 yard radius of the center point of the Barters Island Bridge on Back River connecting Barter Island and Hodgdon Island, approximately 4.6 north of the mouth of the waterway. The duration of the zone is intended to ensure the safety of vessels, the maritime public, construction workers, and these navigable waters during the replacement of the Barters Island Bridge over the main channel of the Back River. During times of enforcement, no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

The Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners via marine Channel 16 (VHF–FM) in advance of any enforcement.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the following reasons: (1) The safety zone only impacts a small designated area of Back River, (2) the safety zone will only be enforced during certain construction activities necessitating a full waterway closure for safety purposes, which is only anticipated to occur on 85 days over a two year period, or if there is an emergency, (3) persons or vessels desiring to enter the safety zone may do so with permission from the COTP Northern New England or a designated representative, (4) the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners via marine Channel 16 (VHF–FM).

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that would prohibit entry within a 50 yards radius from the center point of the Barters Island Bridge during its removal and replacement over an approximately two year period. Normally such actions are categorically excluded from further review under paragraph L60 (a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration for Categorically Excluded Actions is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *https://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C 1231; 50 U.S.C 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0843 to read as follows:

§ 165.T01–0843 Safety Zone; Barters Island Bridge, Back River, Barters Island, ME.

(a) *Location.* The following area is a safety zone: All navigable waters on Back River, within a 50-yard radius of the center point of the Barters Island Bridge that spans Back River between Barters Island and Hodgdon Island in position 43°52′51″ N, 069°40′19″ W (NAD 83).

(b) *Definitions.* As used in this section:

Designated representative means any Coast Guard commissioned, warrant, petty officer, or any federal, state, or local law enforcement officer who has been designated by the Captain of the Port (COTP) Northern New England, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

Official patrol vessels means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Northern New England to enforce this section.

(c) *Effective and enforcement period.* This rule will be effective from 12:01 a.m. on December 1, 2018, through 11:59 p.m. on January 31, 2021, but will only be enforced during operations on replacement of the Barters Island Bridge or other instances which may cause which may cause a hazard to navigation, or when deemed necessary by the Captain of the Port (COTP), Northern New England.

(d) *Regulations.* The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the COTP or the COTP's designated representative.

(2) To obtain permission required by this regulation, individuals may reach the COTP or the COTP's designated representative via Channel 16 (VHF–FM) or (207) 741–5465 (Sector Northern New England Command Center).

(3) During periods of enforcement, any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's designated representative.

(4) During periods of enforcement, upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone must proceed as directed. Any person or vessel within the safety zone shall exit the zone when directed by the COTP or the COTP's designated representative.

Dated: October 2, 2018.

B.J. LeFebvre,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2018–21868 Filed 10–5–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0602; FRL–9985–14–Region 9]

Air Plan Approval; California; El Dorado County Air Quality Management District; Reasonably Available Control Technology Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the El Dorado County Air Quality Management District (EDCAQMD or ''District'') portion of the California State Implementation Plan (SIP). This revision concerns the District's demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) and negative declarations for several source categories. We are proposing action on a local SIP revision under the Clean Air Act (CAA or ''the Act''). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by November 8, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0602 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. The State's Submittal
A. What document did the State submit?
B. Are there other versions of this document?
C. What is the purpose of the submitted document?
II. The EPA's Evaluation and Proposed Action
A. How is the EPA evaluating the submitted document?
B. Does the submitted document meet the evaluation criteria?
C. Public Comment and Proposed Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What document did the State submit?

On January 3, 2017, the EDCAQMD adopted the ''Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Update Analysis Staff Report'' (''2017 RACT SIP''), and on January 4, 2017, the California Air Resources Board (CARB) submitted it to the EPA for approval as a revision to the California SIP. The submittal also included EDCAQMD's Resolution 002–2017, approving the *2017 RACT SIP.*

On January 5, 2017, the EPA determined that the submittal for EDCAQMD's *2017 RACT SIP* met the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review.

B. Are there other versions of this document?

There are no previous versions of this document in the EDCAQMD portion of the California SIP for the 2008 8-hour ozone NAAQS.

C. What is the purpose of the submitted document?

Volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) together produce ground-level ozone, smog, and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_X emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_X. The EDCAQMD is subject to this requirement because it regulates a nonattainment area classified as Severe for the 2008 8-hour ozone NAAQS. Therefore, the EDCAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_X within the nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 25 tons per year (tpy) of VOCs or NO_X is a major stationary source in a Severe ozone nonattainment area (CAA section 182(d), (f), and 302(j)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 8-hour ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states in part that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG. *Id.* at 12278. It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. *See id.* and 70 FR 71612, 71652 (November 29, 2005).

The submitted document provides EDCAQMD's analysis of its compliance with CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. The EPA's technical support document (TSD) has more information about the District's submission and the EPA's evaluations thereof.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the submitted document?

SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO_X in ozone nonattainment areas classified as Moderate or above (*see* CAA section 182(b)(2)). The EDCAQMD regulates a Serious ozone nonattainment area (*see* 40 CFR 81.305) so the District's rules must implement RACT.

States should also submit for SIP approval negative declarations for those source categories for which they have not adopted CTG-based regulations (because they have no sources above the CTG-recommended applicability threshold) regardless of whether such negative declarations were made for an earlier SIP.[1] To do so, the submittal should provide reasonable assurance

[1] 57 FR 13498, 13512 (April 16, 1992).

that no sources subject to the CTG requirements currently exist in the EDCAQMD.

The District's analysis must demonstrate that each major source of VOCs or NO_X in the ozone nonattainment area is covered by a RACT-level rule. In addition, for each CTG source category, the District must either demonstrate that a RACT-level rule is in place, or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (''the Bluebook'', revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (''the Little Bluebook'').
4. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, (November 25, 1992).
5. Memorandum from William T. Harnett to Regional Air Division Directors, dated May 18, 2006, ''RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers.''
6. ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard –Phase 2,'' 70 FR 71612 (November 29, 2005).
7. ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,'' 80 FR 12264 (March 6, 2015).

B. Does the submitted document meet the evaluation criteria?

EDCAQMD's *2017 RACT SIP* provides the District's demonstration that the applicable SIP for the El Dorado County AQMD satisfies CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. This conclusion is based on the District's analysis of SIP-approved requirements that apply to: (1) Major non-CTG stationary sources of VOC or NO_X emissions; and (2) CTG source categories.

With respect to major stationary sources, the *2017 RACT SIP* states the District has no major sources of air pollution that emit more than 25 tpy of VOC or NO_X. The *2017 RACT SIP* further states that the District's only major source, a biomass boiler, ceased operation in 2009 and the unit was dismantled in 2013. We reviewed CARB's emissions inventory database and agree with EDCAQMD's statement that there are currently no major stationary sources of VOC or NO_X in the District.

With respect to CTG source categories, we reviewed EDCAQMD's evaluation of its rules subject to RACT and we agree that its rules are generally consistent with the CTGs and recently adopted rules in neighboring air districts.

Where there are no existing sources covered by a particular CTG document, or no major non-CTG sources, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. Table C of the *2017 RACT SIP* lists the District's negative declarations where it has no sources subject to the applicable CTG for the 2008 8-hour ozone NAAQS. These negative declarations are re-listed in Table 1 below. The District concluded that it had no sources subject to the CTGs based on a review of its permit databases, Standard Industrial Classification codes, other source data, and its emissions inventory. In addition, the District concluded that it had no major non-CTG sources of NO_X or VOCs, based on a review of the District emissions inventory, permit database, internet search, consultation with District Air Quality Specialists, and personal knowledge.[2] The EPA searched CARB's emissions inventory database and conducted a general search on the internet for businesses in El Dorado County and also concluded that there do not appear to be facilities in the ozone nonattainment area that are subject to these CTGs. We believe that these negative declarations are consistent with the relevant policy and guidance regarding RACT.

Our TSD has more information on our evaluation of the submitted *2017 RACT SIP.*

TABLE 1—EDCAQMD NEGATIVE DECLARATIONS

EPA document No.	Title
EPA–450/2–77–008	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.*
EPA–450/2–77–022	*Control of Volatile Organic Emissions from Solvent Metal Cleaning.*
EPA–450/2–77–025	*Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.*
EPA–450/2–77–026	*Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals.*
EPA–450/2–77–032	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.*
EPA–450/2–77–033	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.*
EPA–450/2–77–034	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.*
EPA–450/2–77–036	*Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks.*
EPA–450/2–78–015	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products.*
EPA–450/2–78–029	*Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.*
EPA–450/2–78–030	*Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.*
EPA–450/2–78–032	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.*

[2] *2017 RACT SIP* at 3. This conclusion was also stated in the resolution approving the *2017 RACT SIP*. Resolution 002–2017 at 2 (''The Board of Directors of the EDCAQMD has determined in the 2008 RACT SIP Update Analysis that . . . there are no major stationary sources of VOC or NO_X in the District; . . . EDCAQMD has reviewed its permit database and files and conducted public outreach and has determined that there [is] . . . no ''major source'' of VOC or NO_X in El Dorado County . . . .'' Although major sources of NO_X and VOCs are not included in the Table C list of negative declarations in the *2017 RACT SIP,* we consider the unambiguous statements in the *2017 RACT SIP* and Resolution 002–2017 that there are no major sources in the District sufficient to constitute a negative declaration for major NO_X and VOC sources, and have thus included them in Table 1 below.

TABLE 1—EDCAQMD NEGATIVE DECLARATIONS—Continued

EPA document No.	Title
EPA–450/2–78–033	*Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts-Rotogravure and Flexography.*
EPA–450/2–78–036	*Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.*
EPA–450/2–78–047	*Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks.*
EPA–450/3–82–009	*Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.*
EPA–450/3–83–006	*Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.*
EPA–450/3–83–007	*Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.*
EPA–450/3–83–008	*Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.*
EPA–450/3–84–015	*Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.*
EPA–450/4–91–031	*Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.*
EPA–453/R–96–007	*Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.*
EPA–453/R–94–032	*Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities.*
61 FR 44050; 8/27/96	*Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating).*
EPA–453/R–97–004, 59 FR 29216; 6/06/94.	*Aerospace MACT* and *Aerospace (CTG & MACT).*
EPA–453/R–06–001	Control Techniques Guidelines for Industrial Cleaning Solvents.
EPA–453/R–06–002	Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.
EPA–453/R–06–003	Control Techniques Guidelines for Flexible Package Printing.
EPA–453/R–06–004	Control Techniques Guidelines for Flat Wood Paneling Coatings.
EPA 453/R–07–003	Control Techniques Guidelines for Paper, Film, and Foil Coatings.
EPA 453/R–07–004	Control Techniques Guidelines for Large Appliance Coatings.
EPA 453/R–07–005	Control Techniques Guidelines for Metal Furniture Coatings.
EPA 453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings.
EPA 453/R–08–004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.
EPA 453/R–08–005	Control Techniques Guidelines for Miscellaneous Industrial Adhesives.
EPA 453/R–08–006	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.
EPA 453/B16–001	Control Techniques Guidelines for the Oil and Natural Gas Industry.
Major non-CTG VOC sources	
Major non-CTG NO_X sources	

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the *2017 RACT SIP* including the above negative declarations because they fulfill the RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1112(a) and (b) for the 2008 ozone NAAQS. We will accept comments from the public on this proposal until November 8, 2018. If we take final action to approve the submitted documents, our final action will incorporate them into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: September 26, 2018.

Michael Stoker,

Regional Administrator, Region IX.

[FR Doc. 2018–21882 Filed 10–5–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0383; FRL–9985–09–Region 5]

Air Plan Approval; Illinois; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, as a State Implementation Plan (SIP) revision, Illinois' certification that its SIP satisfies the nonattainment new source review (NNSR) requirements of the Clean Air Act (CAA) for the 2008 ozone National Ambient Air Quality Standard (NAAQS or Standard). Final approval of the Illinois NNSR certification SIP will permanently stop the Federal Implementation Plan (FIP) clocks triggered by EPA's February 3 and December 11, 2017 findings that Illinois failed to submit an NNSR plan for the Illinois portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin area (Chicago Nonattainment Area).

DATES: Written comments must be received on or before November 8, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0383 at *https://www.regulations.gov,* or via email to *damico.genevieve@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: David Ogulei, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–0987, *ogulei.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. Summary of the State's Submittal
III. What is EPA's analysis?
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. Background

A. 2008 8-Hour Ozone NAAQS

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data available at the conclusion of the designation process. For ozone NAAQS, EPA must also classify any nonattainment areas at the time of designation based on the severity of their ozone levels (as determined based on the area's ''design value'' [1]). *See* CAA sections 107(d)(1) and 181(a)(1) and 77 FR 34225. The possible classifications are ''Marginal,'' ''Moderate,'' ''Serious,'' ''Severe,'' and ''Extreme.'' Nonattainment areas with a lower classification (such as marginal areas) have ozone levels that are closer to meeting the standard than areas with a higher classification (such as Extreme areas). *See* CAA section 181(a)(1).

On March 6, 2015, EPA issued a final rule titled ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' (SIP Requirements Rule), which detailed the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS. *See* 80 FR 12264 (March 6, 2015).[2] Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than 36 months after the effective date of area designations for the 2008 8-hour ozone NAAQS (*i.e.,* July 20, 2015), based on 2012–2014 monitoring data. *See* 40 CFR 51.1103.

Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment area planning requirements of CAA section 172 and also to the ozone-specific planning requirements of CAA section 182. States in the Ozone Transport Region (OTR) [3] are additionally subject to the requirements outlined in CAA section 184. Ozone nonattainment areas in the lower classification levels have fewer and/or less stringent mandatory air quality planning and control requirements than those in higher classifications. For a marginal area, a state is required to submit a baseline emissions inventory, adopt a SIP requiring emissions statements from stationary sources, and implement a NNSR program for the relevant ozone standard. *See* CAA section 182(a). For each higher ozone nonattainment

[1] Under 40 CFR 50.15, the ''design value'' for the 2008 8-hour ozone NAAQS is the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations.

[2] The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

[3] The OTR is comprised of the following states: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia. 42 U.S.C. 7511c(a). States in the OTR are required to submit SIP revisions addressing reasonably available control technology (RACT) requirements for the pollutants that form ozone, even if the areas in the state meet the ozone standards.

classification, a state must comply with all lower area classification requirements, plus additional emissions controls and more expansive NNSR offset requirements. For example, the state must comply with all marginal area classification requirements plus it must submit SIP revisions to: (1) Provide for reductions of emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_X) of at least 15 percent from baseline emissions over 6 years; (2) require the implementation of reasonably available control technology (RACT); (3) provide for a vehicle emissions inspection and maintenance (I/M) program; (4) include contingency measures for failure to attain; and (5) include stage II gasoline vapor recovery requirements. *See* 42 U.S.C. 7511a(b) and 7502.

EPA classified the Chicago-Naperville, Illinois-Indiana-Wisconsin area (Chicago Nonattainment Area) as a marginal nonattainment area for the 2008 8-hour ozone NAAQS on June 11, 2012 (effective July 20, 2012) using certified ambient air quality monitoring data from calendar years 2009–2011. *See* 77 FR 34221. The Chicago area includes Cook, DuPage, Kane, Lake, McHenry, and Will Counties and parts of Grundy and Kendall Counties in Illinois; Lake and Porter Counties in Indiana; and part of Kenosha County in Wisconsin.

On May 4, 2016, pursuant to section 181(b)(2) of the CAA, EPA determined that the Chicago area failed to attain the 2008 8-hour ozone NAAQS by the July 20, 2015, marginal area attainment deadline and did not meet the CAA section 181(a)(5) criteria, as interpreted in 40 CFR 51.1107, for a 1-year attainment date extension. *See* 81 FR 26697 (May 4, 2016). Thus, EPA reclassified this area by operation of law as moderate for the 2008 ozone NAAQS. *Id.*[4] In that action, EPA established January 1, 2017, as the due date for the state to submit all moderate area nonattainment plan SIP requirements applicable to newly reclassified areas.

As explained in the SIP Requirements Rule, Illinois was required to develop a SIP revision addressing NNSR requirements for its marginal ozone nonattainment areas by July 20, 2015. *See* 80 FR 12266 (March 6, 2015). Additionally, because the Chicago area was reclassified to moderate nonattainment, Illinois was required to submit a moderate area NNSR SIP by January 1, 2017. *See* 81 FR 26697 (May 4, 2016).[5] NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area. *See* CAA sections 172(c)(5), 173 and 182. The specific NNSR requirements for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.160–165.

B. 2017 Findings of Failure To Submit SIPs for the 2008 8-Hour Ozone NAAQS

On February 3, 2017, EPA found that 15 states and the District of Columbia failed to submit SIP revisions to satisfy certain nonattainment plan requirements for the 2008 ozone NAAQS. *See* 82 FR 9158. EPA found, *inter alia,* that Illinois failed to timely submit a SIP revision to satisfy NNSR requirements for the Chicago and Metro-East[6] ozone nonattainment areas. In addition, on December 11, 2017, EPA found, *inter alia,* that Illinois failed to timely submit a revision to its SIP to satisfy moderate NNSR requirements for the Chicago area. *See* 82 FR 58118.

These findings established certain deadlines for the imposition of sanctions if a state does not submit a timely SIP revision addressing the requirements for which EPA made the findings and the requirement for EPA to promulgate a FIP to address any outstanding SIP requirements. Specifically, Illinois was required to submit a complete SIP addressing the deficiencies that were the basis for each finding within 18 months of the effective dates of the findings (*i.e.,* September 6, 2018 and July 10, 2019, respectively) so as to avoid triggering, pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b)(2) in the affected nonattainment area. Additionally, these rules triggered the requirement for EPA to promulgate a FIP for the affected nonattainment area if EPA does not take final action to approve the state's submittal within 2 years of the effective date of the findings (*i.e.,* March 6, 2019, and January 10, 2020, respectively).

On March 1, 2018, EPA redesignated the Metro-East area to attainment for the 2008 8-hour ozone NAAQS because EPA found this area to have met the statutory requirements for redesignation to attainment under the CAA. *See* 83 FR 8756 (March 1, 2018). In that action, EPA also approved, as a revision to the Illinois SIP, Illinois' plan for maintaining the 2008 ozone NAAQS through calendar year 2030 in the Metro-East area. NNSR SIP revisions are no longer required if an area is redesignated to attainment; the CAA's Prevention of Significant Deterioration (PSD) program requirements apply in lieu of NNSR. *See* 82 FR 9160. Therefore, the finding of failure to submit no longer applies to areas that have been redesignated to attainment. Because the Metro-East area is now designated attainment, a NNSR SIP is not required for this area.

On May 23, 2018, the Illinois Environmental Protection Agency (IEPA) submitted a SIP revision addressing the NNSR requirements of the CAA for areas designated as nonattainment for the 2008 ozone NAAQS. On July 12, 2018, EPA found that Illinois' NNSR SIP submission fulfilled the completeness criteria in 40 CFR part 51, appendix V.[7] Through the completeness finding, EPA determined that the deficiencies which formed the basis for the February 3, 2017 and December 11, 2017 findings had been corrected and, as a result, the sanctions clock was permanently stopped. Final approval of Illinois' May 23, 2018 NNSR SIP revision would permanently stop the FIP clocks triggered by the February 3, 2017 and December 11, 2017 findings.

II. Summary of the State's Submittal

On May 23, 2018, IEPA submitted a SIP revision requesting EPA's approval of Illinois' certification that its existing SIP-approved NNSR regulations fully satisfy the NNSR requirements set forth in 40 CFR 51.165 for both marginal and moderate ozone nonattainment areas for the 2008 ozone NAAQS. IEPA indicates that its NNSR SIP submission is intended to respond to the February 3 and December 11, 2017 findings for the Chicago and Metro-East areas. Specifically, Illinois is certifying that its existing NNSR program covering its ozone nonattainment areas for the 2008 8-hour ozone NAAQS, including the Chicago Nonattainment Area, contains the NNSR elements required by 40 CFR 51.165, as amended by the SIP Requirements Rule, for ozone and its precursors.

Illinois' submittal includes a document titled, ''Illinois' Compliance

[4] The Metro-East area also did not attain the 2008 8-hour ozone NAAQS by July 20, 2015; however, EPA found this area to be eligible for a 1-year attainment date extension, for a new attainment date of July 20, 2016. *See* 81 FR 26697 (May 4, 2016).

[5] Illinois' obligation to submit the NNSR SIP was not affected by the D.C. Circuit Court's February 16, 2018 decision on portions of the SIP Requirements Rule in South Coast Air Quality Mgmt. Dist. v. EPA, No. 15–1115, 2018 U.S. App. LEXIS 3636 (DC Cir. Feb. 16, 2018).

[6] The Metro-East area includes the Illinois portion of the St. Louis-St. Charles-Farmington, Missouri-Illinois ozone nonattainment area, which includes Madison, Monroe and St. Clair Counties in Illinois, and Franklin, Jefferson, St. Charles, and St. Louis Counties and the City of St. Louis in Missouri.

[7] Letter from Edward Nam, Director, Air & Radiation Division, EPA Region 5 to Julie Armitage, Chief, Bureau of Air, IEPA.

With Nonattainment New Source Review Requirements For The 2008 Ozone Standard'' (NNSR checklist), which contains Illinois' detailed assessment of how its SIP-approved NNSR regulations address each of the NNSR requirements for the 2008 ozone NAAQS as codified at 40 CFR 51.165. Illinois certifies that it already complies with CAA sections 172(c)(5) and 182(a)(2)(C), which require states that have been designated nonattainment for an ozone NAAQS to submit plans or plan revisions containing certain required elements, including permit programs for the construction and operation of new or modified stationary sources in the nonattainment area. Specifically, Illinois has certified that its existing State regulations in Title 35 of Illinois Administrative Code Part 203 (35 IAC Part 203) fully satisfy the NNSR requirements set forth in 40 CFR 51.165 for both marginal and moderate ozone nonattainment areas because they contain all NNSR SIP elements required by 40 CFR 51.165 for its ozone nonattainment areas. EPA proposes to find that Illinois' submittal addresses the State's obligations as described in the February 3 and December 11, 2017 findings.

III. What is EPA's analysis?

The minimum SIP requirements for NNSR permitting programs for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.165. *See* 40 CFR 51.1114. These NNSR program requirements include those promulgated in the ''Phase 2 Rule'' implementing the 1997 8-hour ozone NAAQS (75 FR 71018, November 29, 2005) and the SIP Requirements Rule implementing the 2008 8-hour ozone NAAQS. Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that: Set major source thresholds for NO_X and VOC pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of NO_X as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOC and NOx as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1)–(2); provide that the requirements applicable to VOC also apply to NO_X pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO_X pursuant to 40 CFR 51.165(a)(9)(i)–(iii) (renumbered as (a)(9)(ii)–(iv) under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS). Under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015, must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. *See* 40 CFR 51.165(a)(12).

Illinois' NNSR rules, as set forth in 35 IAC Part 203, Major Stationary Sources Construction And Modification, are designed to ensure that the construction of a major new source of air pollution or a large increase of emissions at an existing source does not interfere with the attainment demonstration and does not delay timely achievement of the ambient air quality standards. The rules require owners or operators of major projects to: (1) Apply the Lowest Achievable Emission Rate (LAER) or, for certain existing sources, the Best Available Control Technology (BACT) on emissions of the nonattainment pollutant from the major project; (2) offset the emissions of the nonattainment pollutant from a major project by emission reductions from other sources in the nonattainment area; (3) demonstrate that other sources in the State which are under common ownership or control with the person proposing the project are in compliance with the CAA; and (4) analyze alternatives to the particular project to determine whether the benefits of the project outweigh the environmental and social costs.

EPA last approved revisions to Illinois' NNSR SIP on May 13, 2003. *See* 68 FR 25504 (May 13, 2003).[8] In that action, EPA approved amendments to 35 IAC 203 to better track the language of CAA sections 182(c)(6), (7), and (8). *See* 68 FR 25505. The changes dealt with how one determines whether a proposed change at a source is a major modification.

Based on our review of the NNSR checklist that Illinois incorporated into the SIP submittal, and the version of 35 IAC 203 approved into the Illinois SIP, we propose to find that Illinois' SIP-approved NNSR program at 35 IAC 203 contains the minimum required NNSR elements as specified in 40 CFR 51.165 for Illinois' ozone nonattainment areas. We are proposing to approve Illinois' certification that 35 IAC 203 is consistent with 40 CFR 51.165 and meets the requirements of CAA sections 172(c)(5), 173, 110(a)(2), 182(a)(4) and 182(b)(5) under the 2008 ozone standard for the Illinois portion of the Chicago Ozone Nonattainment Area. Final approval of Illinois' NNSR certification would address the deficiencies that were the basis for the February 3 and December 11, 2017 findings, and would turn off the FIP clock for the Illinois portion of the Chicago Nonattainment Area. While some of Illinois' regulations are worded or organized differently than the Federal counterparts, EPA proposes to find that these differences do not affect the relative stringency of such provisions.

The following table lists the specific provisions of Illinois' NNSR rules that address the required elements of the Federal NNSR rules:

Federal rule	Illinois rule
40 CFR 51.165(a)(1)(iv)(A)(*1*)(*i*)–(*iv*), (*2*)	35 IAC 203.206(b).
40 CFR 51.165(a)(1)(iv)(A)(*3*)	35 IAC 203.206(c).
40 CFR 51.165(a)(1)(v)(E)	35 IAC 203.207(b).
40 CFR 51.165(a)(1)(v)(F)	35 IAC 203.207(f).
40 CFR 51.165(a)(1)(x)(A)–(C); (E)	35 IAC 203.207(d), (e) and (f), and 203.209(a) and (b).
40 CFR 51.165(a)(3)(ii) (C)(*1*)–(*2*)	35 IAC 203.302(a), 203.303(b) and (f), 203.602, and 203.701.
40 CFR 51.165(a)(8)	35 IAC 203.206(b), 203.207(b), (d), (e) and (f), 203.209(a) and (b), 203.301(e) and (f), and 203.302.
40 CFR 51.165(a)(9)(ii), (iv)	35 IAC 203.302(a).

[8] For other relevant approvals, *see* 45 FR 11470 (February 21, 1980); 46 FR 44172 (September 3, 1981); 50 FR 38803 (September 25, 1985); 51 FR 10837 (March 31, 1986); 57 FR 59928 (December 17,1992); and 60 FR 49778 (September 27, 1995).

A. Major Source Thresholds for Ozone—40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2)

The major source thresholds for both VOC and NO_X (*i.e.,* ozone precursors) are defined in 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*i*)–(*iv*) and (*2*). The applicable thresholds vary depending on the classification of the ozone nonattainment area. For marginal and moderate ozone nonattainment areas, a major stationary source of ozone is a source that emits, or has the potential to emit, 100 tons per year or more of VOC or NO_X. Different emissions thresholds apply for Serious, Severe, and Extreme ozone nonattainment areas and for areas located in an OTR.

Illinois has certified that the Federal requirements for major source thresholds for VOC and NO_X are addressed by 35 IAC 203.206(b). Under 35 IAC 203.206(b), for an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit VOC[9] or NO_X in an amount equal to or greater than (1) 100 tons per year in an area classified as marginal or moderate nonattainment for ozone; (2) 50 tons per year in an area classified as serious nonattainment for ozone; (3) 25 tons per year in an area classified as severe nonattainment for ozone; and (4) 10 tons per year in an area classified as extreme nonattainment for ozone. Illinois' thresholds are consistent with the Federal thresholds; therefore, we propose to find that Illinois' NNSR provisions at 35 IAC 203.206(b) satisfy the requirements of 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*i*)–(*iv*) and (*2*).

B. Change Constitutes Major Source by Itself—40 CFR 51.165(a)(1)(iv)(A)(3)

Under 40 CFR 51.165(a)(1)(iv)(A)(*3*), any physical change that would occur at a stationary source not qualifying as a major stationary source becomes a major stationary source, if the change would constitute a major stationary source by itself. Illinois has certified that this requirement is addressed by 35 IAC 203.206(c), which provides that any physical change that occurs at a stationary source which does not qualify as a major stationary source will be considered a major stationary source, if the change would constitute a major stationary source by itself. Illinois' provisions at 35 IAC 203.206(c) for what constitutes a major source are consistent with the Federal provisions at 40 CFR 51.165(a)(1)(iv)(A)(*3*); therefore, we propose to find that the Illinois SIP at 35 IAC 203.206(c) satisfies the requirements of 40 CFR 51.165(a)(1)(iv)(A)(*3*).

C. Significant Net Emissions Increase of NO_X is Significant for Ozone—40 CFR 51.165(a)(1)(v)(E)

Under 40 CFR 51.165(a)(1)(v)(E), any significant net emissions increase of NO_X is considered significant for ozone. Illinois has certified that this requirement is addressed by 35 IAC 203.207(b), which provides that any net emissions increase that is significant for VOC or NO_X shall be considered significant for ozone. Illinois' provisions at 35 IAC 203.207(b) are consistent with the Federal requirements at 40 CFR 51.165(a)(1)(v)(E); therefore, we propose to find that 35 IAC 203.207(b) satisfies the requirements of 40 CFR 51.165(a)(1)(v)(E).

D. Any Emissions Change of VOC in an Extreme Area Triggers NNSR—40 CFR 51.165(a)(1)(v)(F)

Under 40 CFR 51.165(a)(1)(v)(F), any physical change in, or change in the method of operation of, a major stationary source of VOC that results in any increase in emissions of VOC from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to CAA title 1, part D subpart 2. Illinois has certified that this requirement is addressed by 35 IAC 203.207(f). That provision states that in areas classified as extreme nonattainment for ozone, beginning on the date that EPA classifies an area as an extreme nonattainment area for ozone, any physical change in or change in the method of operation of a major stationary source which results in any increase in emissions of VOC or NO_X from a discrete operation, unit, or other pollutant emitting activity shall be considered a major modification. Illinois' provisions at 35 IAC 203.207(f) are consistent with the Federal requirements at 40 CFR 51.165(a)(1)(v)(F); therefore, we propose to find that 35 IAC 203.207(f) satisfies the requirements of 40 CFR 51.165(a)(1)(v)(F).

E. Significant Emissions Rates for VOC and NO_X as Ozone Precursors—40 CFR 51.165(a)(1)(x)(A)–(C) and (E)

Under 40 CFR 51.165(a)(1)(x)(A), (B) and (C), the significant emission rate for ozone is defined as 40 tons per year of VOC or NO_X, except that the significant emission rate in serious or extreme nonattainment areas shall be 25 tons per year. Under 40 CFR 51.165(a)(1)(x)(E), any increase in actual emissions of VOC from any emissions unit at a major stationary source of VOC located in an extreme ozone nonattainment area shall be considered a significant net emissions increase. Illinois has certified that it satisfies these requirements pursuant to 35 IAC 203.207(d), (e) and (f), and 35 IAC 203.209(a) and (b). Specifically, 35 IAC 203.207(d) and (e), and 35 IAC 203.209(a) and (b) establish the significant emission rate for ozone as 40 tons per year of VOC or NO_X and 25 tons per year in serious or extreme nonattainment areas. Additionally, 35 IAC 203.207(f) specifies that in areas classified as extreme nonattainment for ozone, any physical change in or change in the method of operation of a major stationary source which results in any increase in emissions of VOC or NO_X from a discrete operation, unit, or other pollutant emitting activity shall be considered a major modification. Because the Illinois SIP's provisions at 35 IAC 203.207(d), (e) and (f), and 35 IAC 203.209(a) and (b) are consistent with the Federal requirements at 40 CFR 51.165(a)(1)(x)(A)–(C) and (E), we propose to find that the above Illinois SIP provisions satisfy the requirements of 40 CFR 51.165(a)(1)(x)(A)–(C) and (E).

F. Provisions for Emissions Reduction Credits—40 CFR 51.165(a)(3)(ii)(C)(1) and (2)

Under 40 CFR 51.165(a)(3)(ii)(C)(*1*) and (*2*), to be considered creditable, emission reductions achieved by shutting down an existing emission unit or curtailing production or operating hours must be surplus, permanent, quantifiable, and federally enforceable. Shutdowns or curtailments must have occurred after the last day of the base year for the SIP planning process. Reviewing authorities may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes emissions from the previously shut down or curtailed emissions units, but in no event may credit be granted for shutdowns that occurred prior to August 7, 1977. Shutdown or curtailment reductions occurring before the last day of the base year for the SIP planning process may also be generally credited if the shutdown or curtailment occurred on or after the date the construction permit application is filed or if the applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emission unit and the emission reductions that result are

[9] The Illinois SIP also refers to VOC as volatile organic material (VOM). *See* 35 IAC 211.7150.

surplus, permanent, quantifiable, and federally enforceable.

Illinois certifies that these requirements are satisfied by 35 IAC 203.302(a), 35 IAC 203.303(b) and (f), 35 IAC 203.602 and 35 IAC 203.701. In particular, 35 IAC 203.302(a) establishes a general obligation that ''the owner or operator of a new major source or major modification shall provide emission offsets equal to or greater than the allowable emissions from the source or the net increase in emissions from the modification sufficient to allow [IEPA] to determine that the source or modification will not interfere with reasonable further progress [RFP] . . . '' With respect to 40 CFR 51.165(a)(3)(ii)(C)(*1*)(*i*), the Illinois SIP at 35 IAC 203.303(b) and 35 IAC 203.701 requires that all emission offsets must: (1) Be of the same pollutant and of a type with approximately the same qualitative significance for public health and welfare as that attributed to the increase from a particular change; (2) be federally enforceable by permit; (3) not have been previously relied on in issuing any permit pursuant to the Illinois SIP for demonstrating attainment or RFP; and (4) be maintained permanently. Further, 35 IAC 203.303(b)(3) restricts the use of emission reductions from past shutdowns or curtailments, and requires the proposed new or modified source to be a replacement for the shutdown or curtailment. Additionally, under 35 IAC 203.602, no person shall cause or allow the operation of a new major stationary source or major modification where the owner or operator has demonstrated that it would not interfere with RFP by providing emission offsets pursuant to 35 IAC 203.302 without maintaining those emission offsets or other equivalent offsets.[10]

With respect to 40 CFR 51.165(a)(3)(ii)(C)(*2*), we note that Illinois' language in 35 IAC 203.303(b)(3) does not explicitly require that shutdowns or curtailments occur on or after the date a permit application was filed, as specified in 40 CFR 51.165(a)(3)(ii)(C)(*2*). However, Illinois satisfies the Federal requirements by limiting in 35 IAC 203.303(b)(3) the circumstances under which prior shutdowns or curtailments can be credited as offsets. For example, given an applicant for a NNSR permit must provide emission offsets under 35 IAC 203.302, the meaning of the phrase ''past shutdown'' as used in 35 IAC 203.303(b)(3) is consistent with the wording of 40 CFR 51.165(a)(3)(ii)(C)(*2*)(*i*) as it establishes additional requirements for offsets that occurred prior to the filing of the application. Because 35 IAC 203.302(a), 35 IAC 203.303(b) and (f), 35 IAC 203.602 and 35 IAC 203.701 address all of the elements required by 40 CFR 51.165(a)(3)(ii)(C)(*1*) and (*2*), we propose to find that the Illinois SIP satisfies the requirements of 40 CFR 51.165(a)(3)(ii)(C)(*1*) and (*2*).

G. Requirements for VOC Apply to NO_X as Ozone Precursors—40 CFR 51.165(a)(8)

Under 40 CFR 51.165(a)(8), all requirements applicable to major stationary sources and major modifications of VOC shall apply to NO_X except where the Administrator has granted a NO_X waiver applying the standards set forth under CAA section 182(f) and the waiver continues to apply. Illinois certifies that these Federal requirements are satisfied by 35 IAC 203.206(b) (major stationary source); 35 IAC 203.207(b), (d), (e) and (f) (major modification of a source); 35 IAC 203.209(a) and (b) (significant emissions determination); 35 IAC 203.301(e) and (f) (LAER); and 35 IAC 203.302 (maintenance of RFP and emission offsets). As already discussed, we have reviewed 35 IAC 203.206(b); 35 IAC 203.207(b), (d), (e) and (f); 35 IAC 203.209(a) and (b); and 35 IAC 203.302 and find that these provisions contain language that is consistent with the corresponding Federal NNSR requirements with respect to the treatment of VOC and NO_X in ozone nonattainment areas. The Federal requirements for LAER are also addressed by 35 IAC 203.301(e) and (f), which establish specific LAER and BACT requirements for existing sources located in serious or severe ozone nonattainment areas. Because 35 IAC 203.206(b), 35 IAC 203.207(b), (d), (e) and (f), 35 IAC 203.209(a) and (b), 35 IAC 203.301(e) and (f), and 35 IAC 203.302 contain language that is consistent with the Federal requirements, we propose to find that the Illinois SIP satisfies the requirements of 40 CFR 51.165(a)(8).

H. Offset Ratios for VOC and NO_X for Ozone Nonattainment Areas—40 CFR 51.165(a)(9)(ii), (iv)

Under 40 CFR 51.165(a)(9)(ii)(A)–(E), the VOC offset ratios shall be 1.1:1 in marginal ozone nonattainment areas, 1.15:1 in moderate ozone nonattainment areas, 1.2:1 in serious ozone nonattainment areas, 1.3:1 in severe ozone nonattainment areas, and 1.3:1 in severe ozone nonattainment areas. Illinois certifies that these requirements are satisfied by 35 IAC 203.302(a). Specifically, 35 IAC 203.302(a)(1) requires offset ratios for both VOC and NO_X that are consistent with 40 CFR 51.165(a)(9)(ii)(A)–(E). Therefore, we propose to find that the Illinois SIP at 35 IAC 203.302(a) satisfies the requirements of 40 CFR 51.165(a)(9)(ii)(A)–(E).

For ozone nonattainment areas subject to CAA title 1, part D, subpart 1 but not subpart 2, 40 CFR 51.165(a)(9)(iv) requires an offset ratio of at least 1:1. Because all of the current ozone nonattainment areas in Illinois were designated under CAA title 1, part D, subpart 2, 40 CFR 51.165(a)(9)(iv) does not apply to Illinois at this time.

I. OTR Requirements

Illinois' approved SIP does not contain the OTR provisions set forth in 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*ii*), 40 CFR 51.165(a)(1)(iv)(A)(*2*)(*ii*), 40 CFR 51.165(a)(1)(v)(E), 40 CFR 51.165(a)(1)(x)(C), 40 CFR 51.165(a)(8), and 40 CFR 51.165(a)(9)(iii) because Illinois is not located in an OTR. Illinois is not required to include these requirements in its SIP until such time as EPA publishes rules that establish Illinois as a part of the OTR.

J. Anti-backsliding Provisions for the Revoked 1997 NAAQS—40 CFR 51.165(a)(12)

''Anti-backsliding'' provisions are designed to ensure that for existing ozone nonattainment areas that are designated nonattainment for a revised and more stringent ozone NAAQS, (1) there is protection against degradation of air quality (*i.e.,* the areas do not ''backslide''), (2) the areas continue to make progress toward attainment of the new, more stringent NAAQS, and (3) there is consistency with the ozone NAAQS implementation framework outlined in CAA title 1, part D, subpart 2. *See* 78 FR 34211. As part of the SIP Requirements Rule, EPA revoked the 1997 NAAQS for all purposes and established anti-backsliding requirements for areas that remained designated nonattainment for the revoked NAAQS. *See* 80 FR 12265 and 40 CFR 51.165(a)(12). Under 40 CFR 51.165(a)(12), the anti-backsliding requirements at 40 CFR 51.1105 apply in any area designated nonattainment for the 2008 ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015. Illinois has certified that there were no areas

[10] Illinois has explained that the phrase ''other equivalent offsets'' as used in 35 IAC 203.602, coupled with the language in 35 IAC 203.701, establishes that emission offsets must be permanent, and that if emission reductions relied upon by a source cease to be viable as offsets for some reason, the source would need to obtain equivalent offsets.

designated as nonattainment for the 1997 8-hour ozone NAAQS on April 6, 2015.

Attainment status designations for Illinois are found at 40 CFR 81.314. With respect to the 1997 8-hour ozone NAAQS, all areas in Illinois attained the 1997 8-hour ozone NAAQS prior to April 6, 2015. *See* 77 FR 25363 (April 30, 2012) and 77 FR 48062 (August 13, 2012). Since all areas in Illinois were designated as attainment or unclassifiable/attainment on April 6, 2015 for the 1997 8-hour ozone NAAQS, the anti-backsliding requirements of 40 CFR 51.165(a)(12) do not apply for the 2008 8-hour ozone NAAQS. Accordingly, Illinois' approved SIP does not contain the anti-backsliding provisions set forth in 40 CFR 51.165(a)(12).

IV. Proposed Action

EPA is proposing to approve Illinois' May 23, 2018 SIP revision addressing the NNSR requirements for the 2008 ozone NAAQS for the Chicago Nonattainment Area. EPA has concluded that Illinois' submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165, as well as its obligations under EPA's February 3 and December 11, 2017 findings.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The proposed rule approving Illinois' 2008 8-hour ozone NAAQS NNSR SIP revision is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: September 25, 2018.

James Payne,

Acting Regional Administrator, Region 5.

[FR Doc. 2018–21877 Filed 10–5–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R05–OAR–2018–0368; EPA–R05–OAR–2018–0556; FRL–9985–10–Region 5]

Air Quality Designation; Illinois; Indiana; Revised Designation of Illinois and Indiana 2012 $PM_{2.5}$ Unclassifiable Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Illinois' May 8, 2018 request to revise the designation for the entire state of Illinois from unclassifiable to unclassifiable/attainment and Indiana's July 3, 2018 request to revise the designation for the Indiana portions of the Chicago IL-IN and Louisville KY-IN (herein referred to as Chicago and Louisville) areas from unclassifiable to unclassifiable/attainment for the 2012 primary and secondary annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). EPA is proposing to approve these requests because valid, quality-assured, and certified ambient air monitoring data show that the $PM_{2.5}$ monitors in the areas are meeting the 2012 primary and secondary annual $PM_{2.5}$ NAAQS. This includes data from monitors in Illinois where data substitution rules have been applied consistent with applicable regulations.

DATES: Comments must be received on or before November 8, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0368 (Illinois) or EPA–R05–OAR–2018–0556 (Indiana) at *http://www.regulations.gov,* or via email to *aburano.douglass@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*

on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3901, *becker.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. What are the criteria for redesignating an area from unclassifiable to unclassifiable/attainment?
III. What is EPA's rationale for proposing to revise the designation areas?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. Background

The Clean Air Act (CAA) establishes a process for air quality management through the establishment and implementation of the NAAQS. After the promulgation of a new or revised NAAQS, EPA is required to designate areas, pursuant to section 107(d)(1) of the CAA, as attainment, nonattainment, or unclassifiable. On December 14, 2012, EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS to provide increased protection of public health from fine particle pollution (78 FR 3086, January 15, 2013). In that action, EPA revised the primary annual $PM_{2.5}$ standard from 15.0 micrograms per cubic meter (μg/m^3) to 12.0 μg/m^3, which is attained when the 3-year average of the annual arithmetic mean concentration does not exceed 12.0 μg/m^3. *See also* 40 CFR 50.18. EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to fine particulate matter.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. On January 15, 2015 (80 FR 2206) and April 7, 2015 (80 FR 18535), EPA designated areas across the country as nonattainment, unclassifiable, or unclassifiable/attainment for the $PM_{2.5}$ NAAQS based upon air quality monitoring data from monitors for calendar years 2011–2013 or 2012–2014.

In the first action referenced above, EPA designated the entire state of Illinois, including the multi-state areas of Chicago, IL-IN and St. Louis, MO-IL (herein referred to as St. Louis), as unclassifiable because the ambient air quality monitoring sites lacked complete data for the relevant periods, which were from 2011–2013. Therefore, EPA could not determine, based on available information, whether those areas were meeting the 2012 $PM_{2.5}$ NAAQS. EPA also designated the Louisville area as nonattainment, based on monitoring data for Clark and Floyd counties for 2011–2013 showing that a monitor in Clark County had a design value above the standard.

On April 7, 2015 (80 FR 18535), EPA changed the Louisville area initial designation from nonattainment to unclassifiable. Although Indiana submitted complete, quality-assured and certified 2014 data from the Clark County monitor showing it was attaining the NAAQS, EPA noted that an air quality determination was not possible due to invalid monitoring data for neighboring Jefferson County, Kentucky.

On May 8, 2018, Illinois submitted to EPA a request to ''redesignate'' the State of Illinois, including the St. Louis area, from unclassifiable to unclassifiable/attainment based on three years of quality-assured, certified ambient air monitoring data for the three-year period of 2015–2017.

On July 3, 2018, Indiana submitted to EPA a request to ''redesignate'' the Louisville and Chicago areas from unclassifiable to unclassifiable/attainment based on three years of quality-assured, certified ambient air monitoring data for the three-year period of 2015–2017.

II. What are the criteria for revising a designation an area from unclassifiable to unclassifiable/attainment?

Section 107(d)(3) of the CAA provides the framework for changing the area designations for any NAAQS pollutants. Section 107(d)(3)(A) provides that the Administrator may notify the Governor of any state that the designation of an area should be revised ''on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.'' The CAA further provides in section 107(d)(3)(D) that even if the Administrator has not notified a state Governor that a designation should be revised, the Governor of any state may, on the Governor's own motion, submit a request to revise the designation of any area, and the Administrator must approve or deny the request.

When approving or denying a request to redesignate an area, EPA bases its decision on the air quality data for the area as well as the considerations provided under section 107(d)(3)(A). While CAA section 107(d)(3)(E) lists specific requirements for redesignations, those requirements only apply to redesignations of nonattainment areas to attainment and therefore are not applicable in this context of a revised designation of an area from unclassifiable to unclassifiable/attainment. In keeping with section 107(d)(3)(A), areas that request a revised designation to unclassifiable/attainment must meet the requirements for attainment areas and thus must meet the relevant NAAQS. The relevant monitoring data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. The designated monitors generally should have remained at the same location for the duration of the monitoring period upon which the revised designation request is based.[1]

Additionally, appendix N of 40 CFR part 50 specifies the data handling conventions and computations necessary for determining when the NAAQS for $PM_{2.5}$ are met. Appendix N contains data substitution tests, which allow incomplete monitoring data to be considered valid in certain instances prescribed by the rules. Appendix N also provides that, when the data substitution test conditions do not apply, EPA may consider other factors, such as monitoring site closures/moves, monitoring diligence, the consistency and levels of the daily values that are available, and nearby concentrations in determining whether to use such data. See 4.1(d) of appendix N.

III. What is EPA's rationale for proposing to revise the designation areas?

In order to revise the designation of an area from unclassifiable to unclassifiable/attainment for the 2012 primary and secondary annual $PM_{2.5}$ NAAQS, the 3-year average of annual arithmetic mean concentrations (*i.e.,* design value) over the most recent 3-year period must be less than or equal to 12.0 μg/m^3 at all monitoring sites in

[1] *See* Memorandum from John Calcagni, Director, EPA Air Quality Management Division, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (September 4, 1992).

the area over the full 3-year period, as determined in accordance with 40 CFR 50.18 and appendix N of part 50. EPA reviewed $PM_{2.5}$ monitoring data from monitoring stations in the state of Illinois as well as the multi-state areas of St. Louis, Chicago, and Louisville for the 2012 primary and secondary annual $PM_{2.5}$ NAAQS for the 3-year period of 2015–2017. These data have been quality-assured, certified, and recorded in AQS by Illinois, Indiana, Kentucky, and Missouri. As summarized in Tables 1–4, the design values for the monitors in the areas for the 2015–2017 period are below the 2012 primary and secondary annual $PM_{2.5}$ NAAQS.

TABLE 1—2012 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR MONITORS IN THE CHICAGO, IL-IN AREA FOR 2015–2017

Local site name	Monitoring site	2015–2017 design value (μg/m³)
Alsip	17–031–0001	9.5
Washington High School	17–031–0022	9.3
Mayfair Pump Station	17–031–0052	9.1
Springfield Pump Station	17–031–0057	10.2
Com Ed	17–031–0076	9.5
Schiller Park	17–031–3103	10.5
Summit	17–031–3301	9.7
Des Plaines	17–031–4007	9.4
Northbrook	17–031–4201	8.4
Cicero	17–031–6005	10.0
Naperville	17–043–4002	8.3
Elgin	17–089–0003	8.3
Aurora	17–089–0007	8.3
Cary	17–111–0001	+8.2
Joliet	17–197–1002	7.9
Braidwood	17–197–1011	7.9
Washington School	18–089–0006	9.3
Gary Water*	18–089–0031	9.2
Purdue Calumet Powers Building*	18–089–2004	8.7
Water Treatment Plant*	18–127–0024	8.3

* Indiana monitor.
+ Data incomplete.

TABLE 2—2012 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR ST. LOUIS, MO–IL MONITORS FOR 2015–2017

Local site name	Monitoring site	2015–2017 design value (μg/m³)
Jerseyville	17–083–0117	+8.8
Granite City	17–119–1007	9.7
Alton	17–119–2009	8.8
Wood River	17–119–3007	8.7
Houston	17–157–0001	8.5
East St. Louis	17–163–0010	9.8
Blair Street*	29–510–0085	8.8
South Broadway*	29–510–0007	8.7
Arnold West*	29–099–0019	9.3
Ladue*	29–189–3001	9.4
Forest Park*	29–510–0094	8.5

* Missouri Monitor.
+ Data incomplete.

TABLE 3—2012 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR MONITORS IN REMAINING ILLINOIS AREAS FOR 2015–2017

Local site name	Monitoring site	2015–2017 design value (μg/m³)
Champaign	17–019–0006	7.9
Bondville	17–019–1001	7.8
Knight Prairie	17–065–0002	8.2
Normal	17–113–2003	8.0
Decatur	17–115–0013	8.4
Peoria	17–143–0037	8.2
Rock Island	17–161–3002	8.1
Springfield	17–167–0012	8.2
Rockford	17–201–0013	8.3

TABLE 4—2012 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR MONITORS IN THE LOUISVILLE AREA FOR 2015–2017

Local site name	Monitoring site	2015–2017 design value (μg/m³)
Jefferson PFAU *	18–019–0006	9.6
Charlestown State Park *	18–019–0008	8.0
Green Valley Elementary School *	18–043–1004	8.5
Southwick	21–111–0043	9.7
Watson Lane	21–111–0051	9.2
Cannons Lane	21–111–0067	8.6
Durrett Lane	21–111–0075	9.4

* Indiana monitors.

There are two groups of monitoring sites with incomplete data and for which data substitution rules were applied under appendix N of 40 CFR part 50. First, Illinois had eight monitoring sites with a data capture rate below 75 percent during at least one quarter, but had valid $PM_{2.5}$ annual design values after applicable data substitution test conditions were applied consistent with section 4.1(c) of appendix N under 40 CFR part 50. These substitution rules were automatically applied in the EPA AQS database, and the data from these monitors all meet the 2012 $PM_{2.5}$ NAAQS.[2]

Second, Illinois had two monitoring sites, Cary (17–111–0001) and Jerseyville (17–183–0117), that had at least one calendar quarter of data capture below 75 percent and did not meet the substitution test conditions under section 4.1(c) of appendix N. Because the substitution test conditions were not applicable, EPA considered other factors under section 4.1(d) of appendix N, such as monitoring site closures/moves, the consistency of daily levels, and nearby concentrations in determining whether the data from the monitors was valid. In addition, EPA performed a substitution test similar to the test methods specified in 4.1(c). Based on consideration of these factors, EPA determined that the data from these monitors could be used and the data showed that the areas were meeting the $PM_{2.5}$ NAAQS, as described in the tables above. For more information regarding EPA's analyses, see the Technical Support Document titled ''Evaluation of IL Monitors without valid 2017 $PM_{2.5}$ Design Values'' (July 2, 2018).

Because the 3-year design values, based on valid, quality-assured data, demonstrate that the areas meet the 2012 primary and secondary annual $PM_{2.5}$ standards, EPA is proposing to revise the designations of the entire state of Illinois, and the Indiana portions of the Chicago and Louisville areas from unclassifiable to unclassifiable/attainment for this NAAQS.

IV. What action is EPA taking?

EPA is proposing to approve Illinois' May 8, 2018 request to revise the designation of the entire state from unclassifiable to unclassifiable/attainment as well as Indiana's July 3, 2018 request to revise the designation of the Indiana portions of the Louisville and Chicago areas for the 2012 primary and secondary annual $PM_{2.5}$ NAAQS. If finalized, approval of the revised designations requests would change the legal designation, found at 40 CFR part 81, for the state of Illinois and the Indiana counties of Lake, Porter, Clark, and Floyd from unclassifiable to unclassifiable/attainment for the 2012 primary and secondary annual $PM_{2.5}$ NAAQS.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

[2] AQS contains ambient air pollution data collected by EPA, state, local, and tribal air pollution control agencies from over thousands of monitors and is used to assess air quality, assist in attainment/non-attainment designations, evaluate SIPs for non-attainment areas, and perform modeling for permit review analysis.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Particulate matter.

Dated: September 25, 2018.

James Payne,

Acting Regional Administrator, Region 5.

[FR Doc. 2018–21878 Filed 10–5–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2018–0043; 4500030113]

RIN 1018–BD13

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Black-Capped Petrel With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the black-capped petrel (*Pterodroma hasitata*), a pelagic seabird species that nests on the island of Hispaniola and forages off the coast of the eastern United States, as a threatened species under the Endangered Species Act of 1973, as amended (Act). If we finalize this rule as proposed, it would extend the Act's protections to this species. We are also proposing a rule issued under section 4(d) of the Act to provide for the conservation of this species. We have determined that designation of critical habitat for the black-capped petrel is not prudent at this time, but are seeking public comment on that determination.

DATES: We will accept comments received or postmarked on or before December 10, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 23, 2018.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2018–0043, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2018–0043; U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

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

FOR FURTHER INFORMATION CONTACT: Edwin Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office, P.O. Box 491, Road 301 Km 5.1, Boquerón, PR; telephone 787–851–7297. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal. We particularly seek comments concerning:

(1) The black-capped petrel's biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering that apply to both the foraging and nesting areas;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

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

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

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors on both the nesting and foraging grounds and migratory routes, including:

(a) Impacts to prey species;

(b) Predicted changes in the Gulf Stream current due to climate change;

(c) Impacts from offshore and coastal lighting;

(d) Impacts from offshore oil and gas exploration, development, production, and operations; and

(e) Impacts from offshore wind energy operations.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including confirmed locations of any additional populations of this species.

(5) Information on nesting sites on the islands of Cuba or Dominica, or other Caribbean islands.

(6) Information concerning activities that should be considered under a rule issued in accordance with section 4(d) of the Act (16 U.S.C. 1531 *et seq.*) as a prohibition or exemption within U.S. territory that would contribute to the conservation of the species.

(7) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act, including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether a designation could increase threats to the species such that the designation of critical habitat may not be prudent. We specifically request information on foraging habitat for the petrel, the only habitat located within U.S. jurisdiction, and its relationship to the biological needs of the species, to help us determine whether such habitat meets the definition of critical habitat under the Act.

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

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. All comments submitted electronically via *http://www.regulations.gov* will be presented on the website in their entirety as submitted. For comments

submitted via hard copy, we will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* You may request at the top of your document that we withhold personal information, such as your street address, phone number, or email address, from public review; however, we cannot guarantee that we will be able to do so.

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

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register** (see **DATES**). Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hea **Federal Register** and local newspapers at least 15 days before the hearing.

Previous Federal Actions

The black-capped petrel was included as a category 2 candidate species in a **Federal Register** notice of review dated November 15, 1994 (59 FR 58982). Category 2 candidates were taxa for which information was available indicating that listing was possibly appropriate, but insufficient data were available regarding biological vulnerability and threats. In a February 28, 1996, notice of review (61 FR 7596), we discontinued the use of multiple candidate categories and removed category 2 species, including the black-capped petrel, from the candidate list.

We were petitioned by WildEarth Guardians on September 1, 2011, to list the species as endangered or threatened under the Act. On June 21, 2012, we published a 90-day finding, which determined there was substantial scientific or commercial information indicating that listing the species is warranted (77 FR 37367). On February 18, 2015, Center for Biological Diversity (CBD) filed a complaint against the Service for failure to complete a 12-month finding for the black-capped petrel. On September 9, 2015, the Service entered into a settlement agreement with CBD to resolve the complaint; the court approved the agreement on September 15, 2015. The agreement specified that a 12-month finding for the black-capped petrel would be delivered to the **Federal Register** by September 30, 2018. This document serves as our 12-month finding on the September 2011 petition.

Species Status Assessment

A species status assessment (SSA) team prepared an SSA report for the black-capped petrel; the science provided in the SSA, version 1.1, is the basis for this proposed rule (Service 2018). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. The SSA report underwent independent peer review by scientists with expertise in seabird biology, habitat management, and stressors (factors negatively affecting the species) to the species. The SSA report and other materials relating to this proposal can be found on the Service's Southeast Region website at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0043.

Background

A thorough review of the taxonomy, life history, and ecology of the black-capped petrel (*Pterodroma hasitata*) is presented in the SSA report (Service 2018); available at *https://www.fws.gov/southeast and at http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0043.

The black-capped petrel is a pelagic seabird that is in the order Procellariiformes, family Procellariidae. This order is distinguished by sheathed nostrils in horny tubes from the base of the bill (Warham 1990, p. 2). It is a medium-sized seabird in the *Pterodroma* or gadfly genus with long slender wings and markings of a black cap and dark mantle separated by a white collar. The wings are black or dark in color on the top surface as well as the edges of the underwing. Certain morphological characteristics may vary across the species with ''black-faced,'' ''white-face,'' and ''intermediate'' variations of the species having different plumage coloration and patterns (Howell and Patteson 2008, p. 70). A study that compared the genetics of the dark birds to the light and intermediate-colored birds found a substantial differentiation indicating population breeding isolation (Manly *et al.* 2013, p. 231). The black-capped petrel is the only gadfly petrel species to breed in the West Indies. Petrels tend to maintain a strong relationship with their breeding grounds and return to the same nesting areas each year (Warham 1990, pp. 231–234). This site fidelity of these nesting birds tends to isolate breeding populations and can influence genetic, behavioral, and morphological variation due to limited genetic exchange. The variation between the dark and light birds included phenological, morphological, and behavioral differences (Howell and Patteson 2008, entire).

Black-capped petrels currently breed at four locations on the island of Hispaniola (Pic Macaya, Haiti; Pic la Visite, Haiti; Morne Vincent/Sierra de Bahoruco, Haiti/Dominican Republic; and Valle Nuevo, Dominican Republic). Historically, the species also nested on Martinique, Dominica, Guadeloupe, and, possibly, Cuba (Simons *et al.* 2013, pp. S11–S19). Currently, at least 90 percent of the known nests are found within Parc National La Visite (Pic la Visite) in the Massif de la Selle mountain range in Haiti (Goetz *et al.* 2012, p. 5).

Black-capped petrels spend most of their time at sea in the western Atlantic. The at-sea geographic distribution (marine range) of the black-capped petrel includes waters off the eastern coast of North America from latitude 40° N (approximately New Jersey) south to latitude 10° N (approximately northern South America) (Goetz *et al.* 2012, p. 4; Jodice *et al.* 2015, entire). Off the eastern coast of the United States, petrels forage primarily in the Gulf Stream, from northern North Carolina to northern Florida, in areas of upwelling; off the coast of North Carolina, the species is most commonly observed offshore seaward from the western edge of the Gulf Stream and in areas of deeper waters. Near-shore waters off the northern coast of Central and South America also serve as foraging areas for some black-capped petrels during the breeding season (Jodice *et al.* 2015, pp. 26–27). Recent surveys have also found black-capped petrels in the northern Gulf of Mexico (Haney 2018, pers. comm.). The range and extent of the species within the Gulf of Mexico is yet

to be determined, but surveys are ongoing.

Black-capped petrels feed mostly at night and pick their food from the water surface either solitarily or in close proximity to other foraging seabird species. The diet of black-capped petrels is not fully understood; however, stomach contents of black-capped petrels include squid, fish, crustaceans, and *Sargassum* or marine algae (Haney 1987, pp. 163–164; Simons *et al.* 2013, p. S30). The plant materials in the stomach suggest the species may forage around *Sargassum* mats, which tend to attract prey species leading to the ingestion of the algae materials while the petrels feed on their preferred prey. The limited amount of algae found within digestive tracts further suggests that petrels may only be incidentally foraging at the *Sargassum* (Moser and Lee 1992, p. 67).

Black-capped petrel nesting areas are in high-elevation (greater than or equal to 1,500 meters (4,921 feet)), montane forests with steep slopes and rocky substrate with or without vegetation or humus cover that provides cavities for nesting burrows. They may also burrow at the base of native arborescent ferns (Jean and Brown 2018, in litt.). The nesting season begins around January, with high parental investment in the nest and chick rearing. The female lays only one egg each season, with an alternating male and female incubation period of 50 to 53 days, followed by shared parenting of the chick for a minimum of 80 days. Adults that are raising young may travel 500 to 1,500 kilometers (km) (310 to 932 miles (mi)) to obtain food for the young and have been found foraging in the Caribbean Sea (Jodice *et al.* 2015, pp. 26–27). Chicks fledge between May and July, and head out to sea to feed on their own (Simons *et al.* 2013, pp. S21–S22). When adult birds leave the nesting areas, they may migrate up to 2,200 km (1,367 mi) from the breeding grounds to primary offshore foraging areas off the mid-Atlantic and southern coasts of the United States (Jodice *et al.* 2015, p. 23).

The travel of adults to and from nests during foraging bouts for the young generally occurs at night; this makes visual observations difficult. The nests are also in rugged montane areas that are not easily accessed, and burrows are difficult to detect. The species was historically used as a food source for the island inhabitants, as the young chicks are easily captured once a burrow is located. The petrels were also drawn in using manmade fires (Sen Sel) intended to disorient the birds, causing them to fly towards the light of the fire and ultimately crashing into the land nearby where they were captured for food (Wingate 1964, p. 154).

Due to the cryptic nature of the species as described above, the species was thought to be extinct until it was rediscovered in by Wingate in 1963, in the Massif de la Selle mountain range in Haiti. The estimated population at that time was around 2,000 pairs, based on potential occupied suitable habitat; however, there is some uncertainty of the accuracy of this estimate due to the methods used to extrapolate. Wingate suggested the population may have been even higher (Wingate 1964, p. 154).

Summary of Biological Status and Threats

The Act directs us to determine whether any species is an endangered species or a threatened species because of specific factors affecting its continued existence (stressors). Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. The SSA report documents the results of our comprehensive biological status review for the black-capped petrel, including an assessment of the potential stressors to the species. It does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or threatened species under the Act. It does, however, provide the scientific basis that informs our regulatory decision, which involves the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report.

Risk Factors for Black-Capped Petrel

We reviewed the potential risk factors (*i.e.,* threats or stressors) that are affecting the black-capped petrel now and into the future. In this proposed rule, we will discuss in detail only those threats that we conclude are driving the status and future viability of the species. The primary threat to the species on the breeding grounds is habitat loss due to deforestation and forest fires (Factors A and E); additional threats that have affected the species include introduced mammals (Factor C), communication towers (Factor E), and artificial lighting (Factor E). The effects of climate change are also expected to affect the species through increased storm intensity and frequency, resulting in flooding of burrows and erosion of suitable nesting habitat (Factor E). Historically, human predation for consumption (Factor B) and natural disasters (Factor E), such as earthquakes and volcano eruptions, affected the viability of the species. However, there is no evidence that the species is still regularly harvested for consumption. While this was a threat to the species historically, causing the extirpation of some breeding populations, we do not currently consider it a threat to the species. Natural disasters, such as earthquakes and volcanic eruptions, are not regularly occurring events in the Caribbean. While geologic events such as these have occurred in the past, there is no information to indicate these would occur in the near future and were not considered in our analysis.

At sea, the species may be affected by coastal and offshore wind farms (Factor E), offshore oil and gas development (Factor E), marine fisheries (Factor E), and mercury and plastic marine debris (Factor E). Lighting from fisheries and offshore energy operations can disorient the petrels. The predicted increase in strong Atlantic storms or hurricane frequency is also expected to lead to an increase in land strandings (Factor E).

Synergistic interactions are possible between effects of climate change and effects of other potential threats such as habitat degradation, deforestation, agricultural development, and coastal or offshore energy development.

We discuss each of these factors in more detail below.

Deforestation

Deforestation, and associated loss and degradation of nesting habitat, is considered the most significant threat to the black-capped petrel (Goetz *et al.* 2012, entire). Many of the Caribbean islands where petrels were historically reported have experienced extremely high rates of forest conversion and loss since European colonization. Urbanization, agricultural development, and tree harvest for building materials and charcoal production, are driving the changes in the forested areas where the petrels breed. Charcoal, along with firewood, is used for cooking and is one of the primary sources of energy in Haiti. The overwhelming dependence of the human population of Haiti on wood-based cooking fuels has resulted in substantial deforestation and forest conversion in both Haiti and adjacent regions of the Dominican Republic.

On Hispaniola, where all known active petrel nesting sites occur, estimates of current deforestation range from over 90 percent (and increasing)

for the Haitian portion (Churches *et al.* 2014, entire), to slightly less than 90 percent for the Dominican Republic portion (Castro *et al.* 2005, entire; BirdLife International 2010, entire; Simons *et al.* 2013, p. S31). Deforestation in the Haitian nesting areas is particularly significant for the petrel, given that up to 90 percent of all active nest sites of the species may occur in forested areas (Goetz *et al.* 2012, p. 5; J. Goetz, pers. comm.). Although deforestation in petrel nesting areas of the Dominican Republic has been comparatively lower, recent increases in forest clearing for subsistence agriculture and charcoal production in the Sierra de Bahoruco and other areas adjacent to the Haitian border have resulted in concomitant increases in nesting habitat loss and degradation there (Checo 2009, entire; Grupo Jaragua 2011, entire; Goetz *et al.* 2012, p. 7; Simons *et al.* 2013, p. S31).

Forested nesting areas that appear to be suitable for the black-capped petrel occur on the nearby islands of Dominica and Cuba. However, black-capped petrels do not currently breed on these islands. The island of Dominica retains over 60 percent of native forests; likewise, Cuba retains approximately 24 percent of native forest cover (BirdLife International 2010, entire).

Forest Fires

Because the black-capped petrel is primarily a pelagic species, forest fires only affect the species directly during the nesting season. However, effects may be significant and potentially long-term, as fires set to clear land for agriculture can result in substantial loss and conversion of forested nesting habitat. Moreover, fires during the incubation and brooding phase can cause injury or mortality for adults and nestlings within nest burrows.

The incidence of anthropogenic fires increases with growth of human populations (Wingate 1964, p. 154; Simons *et al.* 2013, p. S31). Although natural fires resulting from lightning strikes also occur, these tend to occur mainly during the wetter summer months (Robbins *et al.* 2008, entire). Naturally-occurring fires may help maintain open, park-like pine savannahs at higher elevations, which may be more accessible to petrels (Simons *et al.* 2013, p. S31). In contrast, most anthropogenic fires occur during the winter dry season, when petrels are actively nesting (Simons *et al.* 2013, p. S31) and thereby constitute more of a direct threat. Dry season fires also tend to be more intense, delaying or inhibiting forest recovery due to destruction of seed banks and organic humus layers (Rupp and Garrido 2013, entire).

Fires also indirectly affect petrel nesting habitat by increasing erosion and mudslides following elimination of previously existing vegetation and ground cover. In the Massif de la Selle in Haiti, deliberately-set fires likely caused increased erosion of cliffs used for nesting by petrels; the fires were set to facilitate clearing of land and for fuel wood harvesting (Woods *et al.* 1992, pp. 196–205; Simons *et al.* 2013, p. S33). For years, such fires have also denuded large swaths of forest cover in the petrel nesting areas of Pic Macaya in the Massif de la Selle of Haiti (Sergile *et al.* 1992, pp. 5–12). In the petrel nesting areas of the Dominican Republic, fires are also at times deliberately set in retaliation for actions taken by government officials to evict or otherwise deter Haitian migrants engaged in illegal land-clearing activities (Rupp and Garrido 2013, entire).

Nonnative Species

Like most native Antillean species, the black-capped petrel evolved in the absence of mammalian ground predators. However, following European colonization, many Caribbean islands quickly became host to populations of introduced black rats (*Rattus rattus*), Norway rats (*Rattus norvegicus*), domestic dogs (*Canis familiaris*), feral pigs (*Sus scrofa*), and domestic cats (*Felis domesticus*). In the late 1800s, the deliberate introduction of the small Indian mongoose (*Herpestes javanicus*) resulted in apparently uncontrollable mongoose populations on all islands (except Dominica) where the petrel is known or suspected to nest or have once nested (Barun *et al.* 2011, pp. 19–20; Simons *et al.* 2013, p. S31). Following initial introduction to Jamaica in 1872, the mongoose was promptly introduced to Cuba (1882), Hispaniola (1895), Martinique (1889), and Guadeloupe (1880–1885; Simons *et al.* 2013; p. S31). Although introduced also on Dominica during the 1880s, that introduction of the mongoose was apparently unsuccessful (Henderson 1992, p. 4).

While all of these introduced mammals have negatively affected other native Caribbean species (*e.g.,* Henderson 1992, entire; White *et al.* 2014, pp. 35–38), their current impact on the black-capped petrel is largely unknown (Goetz *et al.* 2012, p. 7; Simons *et al.* 2013, p. S31). Nevertheless, rats in particular are known nest predators and have been observed at entrances to petrel nest burrows (Goetz *et al.* 2012, p. 7); thus, the potential clearly exists for rat predation on petrel nests. Mongooses, rats, and dogs likely played a major role in the extirpation of the Jamaican petrel (*Pterodroma caribbaea*) (Lewis *et al.* 2010, p. 2; Goetz *et al.* 2012, pp. 13–14; Simons *et al.* 2013, pp. S16–S17).

Dogs are commonly kept by security personnel and allowed to roam free at night at communication towers near petrel nest sites in the Dominican Republic (Rupp *et al.* 2011, entire), and may excavate petrel nest burrows or prey on fledgling or adult petrels at or near nest entrances (Woods 1987, pp. 196–205; Goetz *et al.* 2012, p. 7). In fact, there are historical accounts of local inhabitants on Guadeloupe using trained dogs to assist in harvesting petrels for food (Simons *et al.* 2013, p. S12).

Feral cats have also been documented at elevations up to 2,100 meters in the Sierra de Bahoruco of the Dominican Republic at the base of petrel nesting cliffs (Simons *et al.* 2013, p. S31). Feral cats are significant predators of Hawaiian petrels and of great-winged petrels (*P. macroptera*) on Kerguelen Island (Simons *et al.* 2013, p. S31), as well as of Barau's petrels (*P. baraui*) on Reunion Island (Faulquier *et al.* 2009, entire). Accordingly, any feral cats within black-capped petrel nesting areas should be considered potential threats.

While these introduced species currently appear to be relatively scarce and at low densities near known black-capped petrel nest locations, even low numbers of these avian nest predators could significantly impact the few active nests that currently exist, particularly those in more accessible sites (Simons *et al.* 2013, pp. S31–S32). For example, a pack of only three free-ranging dogs reduced a breeding colony of white-tailed tropicbirds (*Phaethon lepturus*) on a Bahamian island by 80 percent in only 4 years (Simons *et al.* 2013, p. S32). It is not known whether current nest site selection by the black-capped petrel reflects the quality of the habitat or is the product of increased predation pressure (Simons *et al.* 2013, pp. S31–S32).

Communication Towers and Artificial Lighting

Recent years have seen the proliferation of telecommunication towers throughout the Caribbean islands. These towers are typically located on high mountain ridges, hills, and other prominent topographic features, and the structures extend several meters above canopy level. Many of the tallest are also secured by numerous guy wires (Longcore *et al.* 2008, entire; Simons *et al.* 2013, p. S32). Because of the nocturnal habits of black-

capped petrels, combined with the high speed at which they fly, they are highly vulnerable to aerial collisions with these unseen structures, especially on foggy nights typical of the petrel nesting season (Goetz *et al.* 2012, p. 8; Longcore *et al.* 2013, entire; Simons *et al.* 2013, p. S32). There have been numerous documented cases of black-capped petrels being killed or injured by aerial collisions with these structures in or near their breeding areas (Goetz *et al.* 2012, p. 8; Simons *et al.* 2013, p. S32).

Wind Farms

The increasing use of wind farms on and near Caribbean islands may constitute a potential threat to flying petrels (Simons *et al.* 2013, p. S32). As with communication towers, land-based wind farms tend to be located on high ground, where winds are higher and more constant. Threats are not only associated with collisions with fan blades, but also disorientation from associated lights with which such structures are equipped. Offshore wind farms can cause localized upwelling of marine currents, thereby attracting potential food sources of petrels and further attracting them to such sites. Collisions with wind turbines are a potential concern, and displacement of seabirds from offshore wind farm areas has also been documented (Garthe *et al.* 2016, entire). However, most such proposed sites are located nearer to shore than the pelagic areas typically used by petrels for feeding, so this specific threat appears comparatively low (Simons *et al.* 2013, p. S32). Recent construction of inland wind farms near petrel nesting areas on Hispaniola (Jodice, in litt.) may constitute an additional and yet unquantified threat, given that there are currently no data on the flying height of black-capped petrels when approaching nesting areas.

Offshore Oil and Gas

Offshore oil and gas activity occurs off the coast of Cuba and northern South America near Venezuela and Colombia. Black-capped petrels use the area of the Caribbean Sea off Hispaniola to northern South America (Jodice *et al.* 2015, p. 28); accordingly, the birds that are foraging or resting in the waters near Cuba could be directly affected by petroleum or petroleum byproducts. Lighting from offshore platforms can also disorient the petrels.

In the United States, proposed exploratory test drilling for oil and production along the edge of the continental shelf off the coast of North Carolina (Simons *et al.* 2013, p. S32) may be a future threat to black-capped petrels. The discovery of petroleum reserves in this zone, and within the main foraging area of the petrel, would most likely result in establishment of drilling and production structures. Petroleum residues or discharged contaminants from production could potentially increase the probability of incidental ingestion of petroleum fragments by surface-feeding birds (Simons *et al.* 2013, p. S32), as well as fouling of plumage from floating residues or oil spills. Although a black-capped petrel was once reportedly found with oil-fouled feathers, as well as one with petroleum fragments in the crop (Simons *et al.* 2013, p. S32), such incidents are relatively few and the genus *Pterodroma* is considered by some (*e.g.,* Clapp *et al.* 1982, p. 1) to be less vulnerable than other species to such exposure, although there are few data regarding the validity of this assertion (Simons *et al.* 2013, p. S32).

Oil platforms and related structures are also typically well-lit for worker safety, and lights disorient flying petrels, especially on foggy nights. Moreover, helicopters are frequently used to transport crew and equipment to offshore production facilities, and the effects of these low-altitude overflights on foraging petrels is unknown. Regardless, because most petrels that forage in this area are adults (Simons *et al.* 2013, pp. S23–S28), any increase in losses from threats on the foraging grounds would disproportionally affect the adult segment of the population.

Although black-capped petrels have recently been recorded in the central and northeastern Gulf of Mexico where oil and gas activities are ongoing, the extent of use of this area is not yet understood. The species has recently been detected in the northern Gulf of Mexico (Service 2018, appendix A). Oil and gas operations are well-established in the northern Gulf of Mexico; however, based on the best available information, black-capped petrels have not been detected in close proximity to platforms (Farnsworth and Russell 2007, entire). Black-capped petrels were also not identified as a species affected by the Deepwater Horizon oil spill in 2010, which occurred in the northern Gulf of Mexico (NOAA 2016 pp. 4–461—4–515; Haney *et al.* 2014a, entire; Haney *et al.* 2014b, entire).

Mercury and Plastic Pollution

In a long-term study of plastic ingestion by seabirds off the coast of North Carolina, plastic was present in stomach contents of over 55 percent of 38 species sampled (Moser and Lee 1992, entire). However, only 1.8 percent of 57 black-capped petrels sampled during the study contained plastic. Black-capped petrels appear far less likely to incidentally ingest plastic fragments than many other seabirds (Simons *et al.* 2013, p. S33).

Black-capped petrels do not forage heavily in areas along current edges where such residue and flotsam tend to collect, but rather in areas of current upwelling where nutrient-rich waters promote increased abundance of primary producers and prey species; this aspect of black-capped petrel foraging behavior may make them less vulnerable to incidental ingestion of such material (Simons *et al.* 2013, p. S33). However, black-capped petrels have been reported with relatively high concentrations of mercury (Simons *et al.* 2013, p. S33), with amounts up to seven to nine times higher than that of most other pelagic species sampled. Such high levels have been associated with reduced reproductive output and neurological damage in other avian species (Simons *et al.* 2013, p. S33). In fact, Procellariforms are known to be particularly susceptible to heavy metal bioaccumulation compared to other seabirds (Kim *et al.* 1996, pp. 262–265; Kojadinovic 2007a, entire; Kojadinovic 2007b, entire). It is postulated that increases in offshore oil drilling may increase such levels of contamination, via direct release of mercury and other heavy metals into the marine food chain (Simons *et al.* 2013, p. S33). Any black-capped petrels potentially foraging in the northern Gulf of Mexico may already be exposed to such contaminants. Although current implications of these findings for the black-capped petrel remain unknown, because of the well-documented adverse effects of mercury contamination and accumulation for wildlife species, any increases in such levels would logically not bode well for the black-capped petrel, which is apparently already exposed to higher than normal levels of this contaminant.

Marine Fisheries

Marine fisheries contribute to injury and mortality of seabirds through entanglement in clear monofilament fishing lines or getting caught in hooks (Furnuss 2003, entire, Li *et al.* 2012, p. 563). Because of the surface-feeding habits of the black-capped petrel, the species is not considered particularly vulnerable to effects of either long-line or pelagic gill net commercial marine fisheries (Simons *et al.* 2013, p. S33). There are no known reports of *Pterodroma* bycatch in any marine fisheries of the northern Gulf of Mexico, Atlantic, or Caribbean. There is little information from foreign fishing fleets regarding the impacts from fisheries

(Simons *et al.* 2013, p. S33). Petrels tend to concentrate foraging activities in deep pelagic zones, rather than in areas of the continental shelf where most inshore fisheries occur. Thus, marine fisheries and associated activities are considered only a minor (albeit unquantified) threat to the black-capped petrel (Simons *et al.* 2013, p. S33).

Climate Change

Under current projections of climate change, the black-capped petrel faces potential effects on both the foraging and breeding areas (Simons *et al.* 2013, p. S33), although by different mechanisms. First, the observed very strong association of the black-capped petrel with Gulf Stream waters and associated current upwelling off the coast of the southeastern United States make the species vulnerable to any climate-induced changes to existing marine hydrology in this zone. Changes in either the direction or temperature of these marine currents could significantly alter the foraging ecology of the species. Because there are currently no specific projections of climate-induced changes or reversal of either the Florida Current or Gulf Stream proper, the threat to the petrel from this aspect of climate change is believed to be low (Simons *et al.* 2013, p. S33). However, projected climate-related increases in the frequency and intensity of Atlantic hurricanes over the next century could substantially increase the numbers of black-capped petrels driven inland and stranded by these storms, thereby increasing mortality (Hass *et al.* 2012, entire).

Threats from climate change to the terrestrial requirements of black-capped petrel ecology are considered greater (Simons *et al.* 2013, p. S33). Among the primary projections for categorical climate-induced changes for the Caribbean basin are sea level rise and increased temperatures. Because of the petrels' use of high-elevation areas for nesting, changes in sea level are not considered to threaten the species. However, predicted temperature increases (Campbell *et al.* 2011, entire; Karmalkar *et al.* 2013, entire) may manifest in numerous ways that could likely affect the petrel. First, associated changes in precipitation may result in increased episodes of heavy rainfall from storms and hurricanes, which, under current landscape conditions, would likely result in increased erosion and the flooding and loss of nesting burrows and nesting sites (Simons *et al.* 2013, p. S33). On the other hand, decreases in precipitation combined with higher temperatures (Campbell *et al.* 2011, entire; Karmalkar *et al.* 2013, entire) may increase frequency of drought and attendant susceptibility of breeding areas to forest fires. Increased intensity of hurricanes and tropical storms (Hass *et al.* 2012, entire) may also adversely affect the petrel by further accelerating erosion and degradation of nesting areas (Simons *et al.* 2013, p. S33). Finally, increased temperatures may likely also increase incidents of new invasive or vector-borne diseases. Black-capped petrels may be immunologically vulnerable to such pathogens (Simons *et al.* 2013, pp. S33–S34); thus, these may pose an additional climate-induced risk for the species.

Current Condition of the Black-Capped Petrel

To assess black-capped petrel viability, we used the three conservation biology principles of resiliency, representation, and redundancy (together, ''the three Rs,'' (3Rs)) (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency refers to the ability of populations to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years or fluctuations in recruitment or adult survival); representation refers to the ability of the species to adapt over time to long-term changes in the environment that influence adaptive capacity through natural selection processes (for example, climate changes); and redundancy refers to the ability of the species to withstand catastrophic events (for example, droughts, hurricanes). In general, the more redundant and resilient a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be divided into three sequential stages. During the first stage, we used the 3Rs to evaluate individual life-history needs. During the next stage, we assessed the historical and current condition of species' demographics and habitat characteristics, including explaining how the species arrived at its current condition. In the final stage, we made predictions about the species' responses to positive and negative environmental and anthropogenic influences.

We assessed a range of conditions to allow us to consider the species' resiliency, representation, and redundancy. For redundancy, populations were defined as isolated nesting areas across the known breeding range of the species. The four known extant nesting areas are on the island of Hispaniola: Pic Macaya, Pic la Visite, Morne Vincent/Sierra de Bahoruco, and Valle Nuevo. Black-capped petrels have also been detected through acoustic detections and radar ''petrel-like targets'' on the island of Dominica, but breeding has not been confirmed there, and, therefore, we will not consider this area as a population until more information is available. Accordingly, we conclude that there are four populations of the black-capped petrel.

These populations were evaluated for resiliency based the number of acoustic and radar detections and nest success. To provide context for the current condition of the species, we considered the historic range to assess the species' resiliency, redundancy, and representation in the past. However, in addressing the species' current condition, only extant populations were analyzed. We evaluated the condition of each population based on nest success, the number of radar petrel-like targets per night and acoustic detections per minute. Overall population condition rankings and habitat condition rankings were determined by combining these factors and elements.

We described representation for the black-capped petrel based on the two distinct color forms of unknown genetic or geographic origins. Geographic representation for the species consists currently of a loose assemblage of the four breeding populations on a single Caribbean island, Hispaniola.

The black-capped petrel spends most of its life at sea, except during breeding, which takes place in high-elevation areas on Caribbean islands. The actual population size of the black-capped petrel is unknown: Published estimates range from approximately 2,000 to 4,000 birds, among which are 500 to 1,000 breeding pairs (Simons *et al.* 2013, p. S22). Though uncertain, recent estimates suggest that the numbers of breeding pairs at sites in the Dominican Republic may be currently be in the 10s to 100s (Simons *et al.* 2013, p. S22), while those in neighboring Haiti may range from approximately 500 to 1,500 (Goetz *et al.* 2012, pp. 4–5). Nesting areas in Haiti may contain up to 95 percent of currently known nest sites for this species (Simons *et al.* 2013, p. 23; Goetz *et al.* 2012, pp. 4–5). Using recent advances in detection methodology, specifically digital acoustic monitoring, evidence of approximately 60 active nest sites was found in the nesting areas of southwestern Dominican Republic (McKown 2014, entire).

Population resiliency is the ability to respond to stochastic disturbances that may affect individual populations; examples of such disturbances affecting the black-capped petrel include climatic factors such as droughts (and associated fires), hurricanes, and excessive rainfall. These disturbances can reduce habitat quality and nesting success on the breeding grounds, and thus may negatively affect population growth. The black-capped petrel has a large parental investment, as they typically produce only one egg per year. The low reproductive output subjects the species to declines in nesting success due to varying environmental conditions (Simons 1984, entire). Resiliency, measured at the population level, is best characterized by the number of individuals per breeding population and nest success. A resilient black-capped petrel population requires multiple areas of suitable nesting habitat and consistent and adequate pelagic food resources in traditional feeding areas. There is currently an estimated total of 500 to 1,000 breeding pairs across the species' range given data and observations over the past 10 to 15 years (Simons *et al.* 2013, p. S22). Although the number of breeding pairs has declined precipitously from historic times to the present, the success of existing nests is relatively high (5-year mean of 75 percent; n = 175 nests). After correcting for search effort, the average number of black-capped petrels seen annually, from 1979 to 2016, along defined transects on foraging grounds in the western Atlantic region is relatively low.

To determine and quantify current species-level overall resiliency, we compared current population resiliency to the historical optimal, based on known prior distribution and number of breeding populations. From the calculations, the current overall resiliency of the black-capped petrel is low, being approximately one-third (.333) of its historical resiliency. The results of our assessment reflect that the black-capped petrel has experienced a progressive reduction in two key demographic parameters over (at least) the past five centuries: (1) Population size and (2) number of breeding populations. These components are not mutually exclusive, as loss of breeding populations typically results in a decline in total population. Historical information also indicates that reductions were, and continue to be, primarily a result of human activities on the Caribbean islands, which historically hosted black-capped petrel breeding populations. Although declines largely occurred following European colonization of the Caribbean region in the 16th century, at least one breeding population (Martinique) was eliminated during pre-Columbian times by overharvesting for food by the resident Carib Indians. Thus, the cumulative actions of human populations on Caribbean islands have progressively reduced the overall extent of known black-capped petrel breeding populations from that of at least seven populations on four different islands, to four current populations, all located on one island (*i.e.,* southwestern Hispaniola). Geographic isolation increases the vulnerability of the species to catastrophic events, such as major hurricanes. Our estimates of little to no redundancy and representation are reflective of the species' vulnerability to such events.

Once breeding populations of the black-capped petrel became geographically limited to southwestern Hispaniola, a suite of additional factors began to work synergistically to further reduce the overall population of the species. Among these, habitat loss and degradation have been, and continue to be, the most pernicious. Anthropogenic habitat loss and associated factors threaten the remaining breeding populations on Hispaniola and have almost certainly contributed to the substantial decline in overall numbers of the black-capped petrel over the past 50 years. There has also been an apparent concomitant decrease in petrel numbers within most individual breeding populations. Our estimate of low resiliency for the black-capped petrel reflects extensive nesting habitat loss and degradation, and subsequent declines in petrel population size.

Redundancy reflects the capacity of a species to persist in the face of catastrophic events, and is best achieved by having multiple, widely distributed populations across the geographical range of the species. Black-capped petrel redundancy is characterized by the number and geographic dispersion of breeding populations. Historically, the species' breeding range included Hispaniola, Dominica, Guadaloupe, Martinique, and possibly Cuba. Currently, redundancy is characterized by only four known breeding populations occurring on one island. Moreover, given the relatively close proximity and analogous life-history characteristics of all known nesting colonies, the probability that all colonies would be similarly affected by a given extreme climatic event is quite high. Although total numbers of nests per population are highly uncertain, the majority (80 to 90 percent) of nests are believed to be within the Pic Visite nesting area (J. Goetz, pers. comm.), an area currently subject to significant and increasing pressure from deforestation and other anthropogenic activities.

Current representation in terms of nesting habitat is limited to a relatively narrow range of characteristics shared by all four known breeding areas. Historical records up to at least the early 19th century documented nesting by the petrel on at least three additional islands: Dominica, Guadeloupe, and Martinique (Simons *et al.* 2013, pp. S10–S13). Of these, there is credible evidence of the possible existence of an extant breeding population only on Dominica (Brown 2015, entire). Thus, there are credible past records of up to at least seven breeding populations of the species within the Caribbean, compared to perhaps only four currently, for an approximate 43-percent reduction in geographic representation since the early 19th century.

Conservation Actions

Over at least the past decade, the threats to continued viability of the black-capped petrel have become well-known both locally (*i.e.,* on Hispaniola) and internationally, and several nongovernment organizations (NGOs) are currently working in both Haiti and the Dominican Republic in an effort to reduce or otherwise mitigate the severity of these threats. These NGOs include international organizations (*e.g.,* BirdsCaribbean, Environmental Protection in the Caribbean, Plant with Purpose, American Bird Conservancy, International Black-capped petrel Conservation Group) as well as local organizations (*e.g.,* Grupo Jaragua, Société Audubon Haiti).

Because most of the threats to the black-capped petrel are directly the result of anthropogenic activities, these NGOs have been providing technical assistance and education on sustainable agricultural practices, watershed management, and reforestation of previously deforested and degraded areas in the regions where petrels nest. These actions are in addition to ''traditional'' conservation efforts such as environmental education and heightened awareness of, and appreciation for, the black-capped petrel at the local level.

For example, in the community of Boukan Chat, Haiti (adjacent the Morne Vincent petrel nesting area), NGOs have developed black-capped petrel educational programs for local schoolchildren, provided financial and technical assistance with construction of freshwater cisterns, and provided tree seeds and technical assistance for local

reforestation projects. Some residents of Boukan Chat have also been hired to work toward improving community awareness of the black-capped petrel and its plight, and how sustainable land management can be mutually beneficial to both the community and the petrel.

Other such NGO efforts include production of a documentary video highlighting the black-capped petrel and detailing local efforts to save the species. Additional efforts include active monitoring for forest fires near petrel nesting areas, continued monitoring of petrel nest success in the Morne Vincent/Sierra del Bahoruco nesting area, continued radar and bioacoustical monitoring for petrel detections, and working with owners of a local communication tower to reduce nocturnal lighting intensity as a means to reduce black-capped petrel collisions with these structures (Brown 2016, entire; IBPCG 2016, entire; IBPCG 2017, entire). However, these NGO efforts, albeit locally successful, are still relatively limited in both geographic scope and funding, and there are yet other areas of Hispaniola that harbor black-capped petrel nesting colonies (*e.g.,* Pic Macaya, Pic La Visite) that could likely benefit from similar efforts.

The black-capped petrel was added to an existing international agreement in 2014, under the Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region (SPAW). The SPAW Protocol is pursuant to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region. The SPAW Protocol was adopted in 1990, and entered into force in 2000. The United States ratified the SPAW Protocol in 2003. There are currently 16 State Parties to the SPAW Protocol from throughout the wider Caribbean region. At least 90 to 95 percent of all black-capped petrel nests are within Haiti or along its border with the Dominican Republic. Although the Dominican Republic is a party to the SPAW Protocol, Haiti is not, and the lack of conservation efforts in Haiti leaves the species vulnerable to ongoing and future impacts to the petrel's nesting habitat.

Future Condition of the Black-Capped Petrel

To assess the future condition of the species, we define viability as the ability of the species to sustain wild populations, both across its range and among representative units beyond a biologically meaningful timeframe. The estimated generation time of the black-capped petrel is 5 years (Goetz *et al.* 2012, p. 5; Simons *et al.* 2013, p. S22); 50 years encompasses approximately 10 generations, which we believe is an appropriate time horizon to realize predicted effects of factors acting on species viability. However, we also examined factors affecting species viability at shorter time intervals (10 and 25 years), corresponding to approximately two and five black-capped petrel generations, so that we could understand dynamics affecting the species from current condition to the end of the 50-year predictive time horizon (Service 2018, p. 45).

We used the best available information to assess the predicted future viability of the black-capped petrel. In doing so, we considered all recognized threats to the species and how and why they may impinge upon species viability. In the process, we observed that the numerous distinct threats shared common underlying drivers, and of these, the two that encompassed virtually all threats were (1) Regional climate change, and (2) human population growth, particularly on Hispaniola, where all currently known nesting by the petrel occurs. Importantly, for both of these identified drivers, there exists a body of empirical data on which to base reasonable predictions of future conditions for the black-capped petrel. Rather than attempting to predict future levels of all of the diverse threats, many of which lack adequate quantitative data, we chose instead to examine future projections for these two overarching drivers. To employ this approach, we used a combination of black-capped petrel population trajectories over the past 50 years, past trends and current levels of threats, and recognized causal relationships between and among drivers and threats, to incorporate them into a model to arrive at what we believe to be the most likely future status of the black-capped petrel.

When determining the effects of climate on the black-capped petrel, we used the most recent analyses of projected future climate patterns in the Caribbean region that predict a median increase in annual surface air temperature of 2.8 degrees Celsius (°C) (37 degrees Fahrenheit (°F)) within the current petrel nesting areas on Hispaniola by year 2080 (Campbell *et al.* 2010, entire; Karmalkar 2013, entire). Additionally, precipitation is projected to substantially decrease during both the early (May to July) and late (August to October) wet seasons for these same areas with a generally drier precipitation pattern year-round. Percentage decreases in early wet season precipitation are projected to be greater (median −41 percent) than decreases in late wet season precipitation (median −22 percent). In general, decreases in wet season precipitation are particularly significant, as those months are when the greatest amount of annual rainfall occurs (Karmalkar *et al.* 2013, pp. 301–303). Decreases in dry season precipitation are projected to be comparatively less than decreases during the wet seasons by current models (Karmalkar *et al.* 2013, pp. 301–303), resulting in an overall future reduction in the degree of bimodality of current wet and dry seasons in the western Caribbean (*e.g.,* Hispaniola). Thus, the local climate of the currently known black-capped petrel nesting areas on Hispaniola is projected to become hotter and drier over the next 50 to 60 years with less differentiation between wet season and dry season rainfall amounts.

Although the full ecological effects of a projected hotter and drier climate in the current black-capped petrel nesting areas on Hispaniola are complex and yet unknown, such a change will likely increase the frequency and intensity of forest fires. Currently, anthropogenic forest fires cause substantial habitat degradation and loss both within and adjacent to the petrel nesting areas (Sergile *et al.* 1992, entire; Goetz *et al.* 2012, p. 7; Rupp and Garrido 2013, entire; Simons *et al.* 2013, p. S31), and any increases in this disturbance are likely to have significant adverse effects on species viability. Decreased rainfall and humidity during the traditional wet seasons may also exacerbate effects of naturally occurring fires from lightning strikes. Fires would likely become more intense and extensive, mimicking the effects of the more damaging dry season anthropogenic fires. Such effects include elimination of naturally occurring seed banks, increased erosion and mudslides, and loss of accumulated organic humus layers that may be used as nest sites by black-capped petrels. Moreover, because the early wet season (May to July) is projected to experience the greatest reduction in precipitation, increased occurrence of forest fires at such time may increase risks to nesting black-capped petrels as well as fledglings, which leave nests during this season.

Changes in temperatures and rainfall patterns are not the only projected effects of regional climate change for Hispaniola. Recent projections indicate the frequency of intense hurricanes (*i.e.,* Categories 4 and 5) are predicted to not only increase for the region, but also the amount of precipitation associated with these atmospheric events is projected to increase by at least 11 percent, with up to 20- to 30-percent increases in

precipitation near the center of these storms (Elsner *et al.* 2008, entire; Knutson *et al.* 2013, entire). Fewer Atlantic hurricanes are projected; however, the intensity of the storms is expected to increase (Bender *et al.* 2010, p. 458). In upper elevation Caribbean forests, intense hurricanes cause widespread and severe damage to vegetation at all strata, including large accumulations of organic debris that may block or otherwise impede access by petrels to previously existing nest burrows. The physical and ecological effects of these storms may persist for decades (Lugo 2008, entire) and include redirection of ecological succession, changes in the ecological space available to organisms, and wholesale changes in forest microhabitats. In particular, hurricane-induced erosion and landslides could have potentially severe effects on black-capped petrels by degrading or eliminating currently productive nesting areas, particularly if said areas undergo prior degradation and ground cover loss due to forest fires or anthropogenic land-clearing. A massive landslide is believed to have eliminated the only known nesting area for the black-capped petrel on the island of Guadeloupe, resulting in the species' extirpation from that island (Simons *et al.* 2013, pp. S11–S12).

Projected climate change and associated effects on hurricane intensities may also have repercussions for black-capped petrels in their marine foraging areas. Over 100 years of data were used in a model that depicted the relationship between black-capped petrel inland strandings (*i.e.,* birds found far inland from normal marine habitat) and resultant mortalities in the continental United States in relation to Atlantic hurricane intensities and trajectories; it was found that on at least eight occasions over the past century, major (Categories 3 to 5) hurricanes had likely resulted in mortalities of tens to hundreds of black-capped petrels (Hass *et al.* 2012, entire). Also, projected increases in major hurricane activity in the region are expected due to climate change (Bender *et al.* 2010, entire; Knutson *et al.* 2010, entire), and hurricane-related mortalities of black-capped petrels could nearly double over the next 100 years (*i.e.,* 50 percent increase over a 50-year period), particularly from the powerful ''Cape Verde'' hurricanes for which landfall rates along the southeastern U.S. coast are projected to increase 10 percent per decade over the next century (Hass *et al.* 2012, pp. 256–257). Because black-capped petrels tend to congregate at high densities on marine foraging grounds off the eastern United States during the peak of the Atlantic hurricane season, they are especially vulnerable to such atmospheric events (Hass *et al.* 2012, pp. 258–260). Based on climatic projections, such losses could constitute up to 5 to 10 percent of the current known breeding population of the species over the next 50 years (Hass *et al.* 2012, entire). However, any reductions in the current black-capped petrel breeding population from other unrelated factors (*e.g.,* predation, tower collisions, and forest fires) could thereby amplify and exacerbate the effective proportion of hurricane-related losses.

The factor that is expected to have the greatest effect on black-capped petrel is human population growth in Haiti. The projected increases in human population discussed below will increase the energy needs of Haiti, further influencing habitat loss due to charcoal production or agricultural conversion.

To assess the influence of human population growth on petrel nesting habitat on Hispaniola, we considered three different plausible scenarios. The three scenarios correspond to baseline, baseline plus 20 percent, and baseline minus 20 percent, of United Nations (UN) population growth projections for Haiti and the Dominican Republic. By ''bracketing'' our projections, we were attempting to account for inherent uncertainties that can arise from long-term projections. By accounting for potential variation, we increased our confidence that the ''true'' population growth, and its subsequent effects on black-capped petrel nesting habitat, was captured within the range of our scenarios. This also provided a means of graphically depicting and examining relative differences in population growth over time, which may allow for the identification of ''critical time points'' beyond which certain threats may more rapidly increase in severity. In order to provide a better understanding of the projected trajectory of the future scenarios, we predicted factors affecting black-capped petrel status at two intermediate time frames, 10 and 25 years, as well as 50 years, which is the end of our predictive time horizon. The complete analyses for all three scenarios are provided in the SSA report (Service 2018, pp. 43–56).

Scenario 1: Human Population of Hispaniola Increases per Current UN Projections

The current population of Haiti is around 11 million people (United Nations 2018). If the population of Hispaniola increases as currently projected, by 2070, there will be 28 million inhabitants on the island, of which 15 million will reside in Haiti. At such time, the human population density of Haiti will exceed 545 persons per square kilometer (/km^2), with most people living in densely populated urban areas where charcoal is currently the primary fuel used for cooking. Unless there is a significant shift away from the use of wood-based fuels to (perhaps) propane gas (as is the case in the Dominican Republic), our analysis indicates the rate of land-clearing and forest degradation both within and near black-capped petrel nesting areas will likely increase by 62 percent over the next 50 years. Moreover, the demand for food and building materials to support the human population will also increase substantially over current levels, resulting in additional deforestation for agricultural purposes. Deforestation concurrent with population growth is expected to occur in both in Haiti and adjacent areas of the Dominican Republic. Anthropogenic fires associated with land-clearing activities are also expected to increase, further threatening black-capped petrel nesting habitat. Given the level of this threat to nesting areas and the magnitude of forest conversion (*i.e.,* for charcoal production, agriculture), the resiliency of the black-capped petrel is predicted to be very low.

The black-capped petrel populations most likely to be adversely affected under this scenario are those within Haiti and along the Haiti-Dominican Republic border. In particular, the Pic Macaya and Pic La Visite breeding populations in Haiti, which have apparently suffered the greatest recent declines in both habitat quality and quantity (Goetz *et al.* 2012, pp. 9–10; Simons *et al.* 2013, pp. S13–S15), and a subsequent loss in the number of nesting petrels, are likely to face extirpation. If these breeding populations are adversely affected, this could potentially result in a loss of 85 to 95 percent of the currently known breeding population of the black-capped petrel (see Goetz *et al.* 2012, p. 5). The Haitian portion of the Morne Vincent/Sierra del Bahoruco breeding colony, having already been largely deforested, may experience slightly less adverse effects from continued deforestation. However, there is a significant potential for increased land clearing for agricultural activity in this nesting area, as it is not within any officially protected area. In contrast, although the Dominican Republic portion of this nesting area will most likely also be subject to at least some increased

clearing for agricultural activities as well as charcoal production, much of this nesting habitat is at least somewhat officially protected in the Dominican Republic, which may help to reduce or slow future degradation. The remaining, and only recently discovered, nesting area is in Valle Nuevo National Park in the central mountains of the Dominican Republic. This nesting area faces many similar threats but is more remote and slightly more distant from the growing market for charcoal in Haiti. This distance from anthropogenic influence, along with its protected status, may result in this nesting area being less adversely affected than the others. However, only one black-capped petrel nest has been identified in Valle Nuevo National Park, so this area's overall importance to species resiliency and persistence is uncertain at best.

Scenario 2: Human Population of Hispaniola Increases at Annual Rates 20 Percent Less Than UN Projections

In Scenario 2, the human population on Hispaniola is projected to increase at an annual rate that is 20 percent less than currently predicted, resulting in approximately 27.5 million inhabitants by 2070, of which 14.6 million of those inhabitants will reside in Haiti. Note that this projected total population is only about 2 percent less than was projected in Scenario 1. Likewise, the projected population density of Haiti under this scenario is 532 persons/km^2, only about 2 percent less than projected in Scenario 1. Accordingly, the future for black-capped petrel under Scenario 2 is expected to look very similar to that described in Scenario 1, resulting in a predicted very low future resiliency.

Scenario 3: Human Population of Hispaniola Increases at Annual Rates 20 Percent Greater Than UN Projections

In Scenario 3, the human population on Hispaniola is projected to increase at an annual rate that is 20 percent greater than predicted in Scenario 1. Under Scenario 3, there will be approximately 34 million inhabitants on the island by 2070, of which just over 20 million will reside in Haiti. Under this scenario, human population densities would reach 740 persons/km^2 in Haiti, and 285 persons/km^2 in the Dominican Republic. At such time, the projected demand for charcoal and firewood in Haiti (assuming all other required resources would support such a population) would result in a 220-percent increase in the amount of deforested and degraded areas on Hispaniola just for energy production. In addition to deforestation for charcoal, additional forest lost is projected to occur as a result of intensified agricultural activities. Under these projections, the magnitude of forest conversion would likely result in widespread catastrophic loss of nesting habitat and, in turn, likely extinction of the species in the wild. Because of the inherent uncertainty of projections for the more severe outcome of Scenario 3, we opted to subdivide this scenario into two equally likely outcomes: Scenario 3a (one remaining very low resiliency population; *i.e.,* Valle Nuevo National Park), and Scenario 3b (no remaining populations; *i.e.,* species extinction).

All three of the future scenarios indicate a decline in the species' viability through the loss of resiliency, redundancy, and representation. As the human population on Hispaniola increases, the attendant anthropogenic factors that currently influence species viability are virtually certain to increase concomitantly. Future increases in the human population of Haiti will almost certainly result in increased deforestation rates throughout black-capped petrel nesting areas, both for production of charcoal and for necessary agricultural products and building materials. Based on the best available information, our more conservative projections suggest a future increase of approximately 0.56 to 0.65 percent per year in the areal extent of forest conversion on Hispaniola. Of the four known breeding populations on Hispaniola, two (Pic Macaya and Pic La Visite) are likely to face extirpation by 2070 under all three projected future scenarios: Pic Macaya because of the lack of control of human access or ongoing conservation efforts, and Pic La Visite because of ongoing and increasing rates of degradation and its close proximity to the capital city, Port-au-Prince, where anthropogenic demand for resources (food, fuel, building material) is very high. In the case of Pic La Visite, the discovery of any additional petrel nesting sites in the adjacent and contiguous areas of Pic La Selle could potentially attenuate such losses, but no such additional nest sites have been found to date. The loss of these two breeding populations would represent a potential loss of up to 85 to 95 percent of the entire currently known breeding population of the black-capped petrel.

The primary effects of anthropogenic actions on black-capped petrel viability have apparently occurred over the past four or five centuries, a relatively short time in an evolutionary context. The petrel has been subject to the stochastic occurrences of tropical storms and hurricanes in the Caribbean for much longer, and has presumably evolved adaptive strategies in response to such storm events. However, such adaptations evolved in the context of multiple breeding populations across multiple islands and larger populations, and under previous regional climatic regimes. Furthermore, the conditions in which the black-capped petrel evolved have drastically changed, and this is only predicted to worsen. In the case of regional climate regimes, the best available information suggests a hotter and drier future climate within the specific area where black-capped petrels currently nest, along with a steady increase in the number of intense (Category 3 to Category 5) hurricanes across the region over the next century. Although major hurricanes were likely not a threat to the black-capped petrel under their historic (*i.e.,* pre-Columbian) population conditions, the combination of fewer and smaller breeding populations, ongoing nesting habitat loss and degradation, and more frequent and intense tropical storms will likely result in adverse effects to the petrel from these stochastic atmospheric phenomena. Based on past trends and evidence, these adverse effects will likely also include increased mortalities of adults on the western Atlantic foraging grounds due to increased frequency of hurricane-induced inland strandings.

There remains an additional factor that we were unable to evaluate that could conceivably influence black-capped petrel viability. For many species, particularly those that form breeding colonies or other such aggregations, as population numbers decline they may reach a ''critical level'' below which normal social and ecological interactions become impaired or inhibited. This is commonly referred to as the Allee effect (see, *e.g.,* Courchamp *et al.* 1999, entire; Stephens *et al.* 1999, entire). Examples of such effects include increased *per capita* demographic effects of mortalities, disruption of normal pair-bond formation, skewed sex ratios, lower reproductive success, and reduced foraging efficiency. These combined effects can result in an extinction vortex from which a species cannot demographically recover (Dennis 2002; entire). As the population declines, the potential for future manifestations of demographic Allee effects in this species should not be discounted or ignored.

Finally, the best available science at the time of the analysis indicates that the future viability of the black-capped petrel is linked to the complex and challenging socioeconomic and environmental landscape within Haiti,

where as many as 90 to 95 percent of all known black-capped petrel nest sites occur. The current and future challenges faced by Haiti in terms of political and economic stability, environmental protection, food security, and public health are daunting. Also, while there are, and will continue to be, numerous successful initiatives by both local and international conservation and humanitarian organizations to provide needed financial and technical support for environmental conservation in Haiti, these efforts are nonetheless subject to the vicissitudes of donor funding in an ever unpredictable global financial setting. Natural resource conservation and management in Haiti would be seriously hampered in the event of a major global financial crisis, widespread social unrest in Haiti, or a military confrontation between Haiti and the Dominican Republic, all of which have occurred at some point in the past. Meanwhile, Haiti, and to a lesser but still significant degree, the Dominican Republic remain highly vulnerable to stochastic and catastrophic natural events such as major earthquakes and hurricanes, which can result in significant setbacks for ongoing conservation efforts (Castro *et al.* 2005, entire; Smucker *et al.* 2007, entire). In the end, the future of the black-capped petrel will depend in large measure on the long-term effectiveness of ongoing and future conservation efforts in Haiti.

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the black-capped petrel. Habitat loss and degradation due to deforestation for agricultural development and charcoal production are currently the major threats to the species on its nesting grounds on the island of Hispaniola (Factor A). Historically, the black-capped petrel also nested on the islands of Guadeloupe, Martinique, Dominica, and possibly Cuba. The species was extirpated from Martinique in pre-Columbian times by island residents that over-harvested the petrel for consumption (Factor B). Nonnative mammalian species are a threat to native wildlife on islands and contributed to the loss and probable extirpation of the species on the island of Dominica in the late 19th century (Factor C). The species' nesting range is limited to the steep, high-elevation areas that can be affected by erosion due to increased hurricane intensity and frequency, reducing available cavities or access to nesting sites (Factor E). Due to the loss of nesting areas across the historical range of the species, the black-capped petrel is currently only confirmed to be reproducing on the island of Hispaniola. The species' range reduction has led to the loss of redundancy of populations, with only four known nesting colonies, all confined to one island, remaining. This also contributes to the loss of representation, as the species has high fidelity to the same nesting sites each year; there is limited genetic exchange between populations. With the loss of populations on other islands, this reduces the potential for additional genetic lineages to increase genotypic diversity within the species.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species that is ''likely to become endangered within the foreseeable future throughout all or a significant portion of its range.'' Foreseeable future was determined to be between 30 and 50 years; based on available data regarding human population growth on Hispaniola and associated sociological factors (energy sources/demand, resource availability, increased need/conversion of land to agriculture to support increasing human populations) and climate change projections, we can reasonably project future conditions out that far.

Climate change data are less reliable in the Caribbean, augmenting the level of uncertainty and reliability of the projections. The most important driving factor for breeding habitat changes into the future is human population growth and resource use (*e.g.,* charcoal). The greatest threats to the species currently affect the species on their breeding grounds. Due to deforestation from agricultural development and charcoal production, the breeding range has been reduced from its historical range; the remaining habitat and populations are threatened by a variety of factors acting in combination to reduce the overall viability of the species. Viability in terms of resiliency, redundancy, and representation was analyzed and described in the SSA report. In summary, the species' resiliency is expected to decline, as well as its redundancy and representation.

The current condition of each of the breeding populations was evaluated using the number of radar targets per night, acoustic detections per hour, and nest success at each of the confirmed nesting areas. To determine and quantify current species-level overall resiliency we compared current population resiliency to the historical optimal, based on known prior distribution and number of breeding populations (Service 2018, p. 39–41). In respect to redundancy, the number of populations has declined due to the extirpation of the species on Guadaloupe, Martinique, and Dominica. The contraction of the breeding range and loss of populations on the additional islands results in low redundancy and leaves the species more vulnerable to catastrophic events.

The risk of extinction in the foreseeable future is high because the remaining populations are small, suitable habitat is limited for additional nesting areas, and the impacts from stressors acting on the species on the nesting grounds are expected to increase. Therefore, on the basis of the best available scientific and commercial information, we find that the black-capped petrel is likely to become endangered within the foreseeable future throughout its entire range because of the threats facing the species. However, the current status of the species as evaluated in the SSA report indicates the species is presently not at risk of extinction throughout its range (*i.e.,* endangered throughout its range), because the species has retained resiliency, with four extant breeding populations on Hispaniola and with a current population estimated to be between 2,000 to 4,000 individuals, an estimated 500 to 1,000 breeding pairs, and an overall nesting success rate of around 75 percent (Service 2018, pp. 17–19).

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the black-capped petrel is likely to become an endangered species within the foreseeable future throughout its range, we find it unnecessary to proceed to an evaluation of potentially significant portions of the range. Where the best available information allows the Services to determine a status for the species rangewide, that determination should be given conclusive weight because a rangewide determination of status more accurately reflects the species' degree of imperilment and better promotes the purposes of the statute. Under this reading, we should first consider whether listing is appropriate based on a rangewide analysis and proceed to conduct a ''significant portion of its range''

analysis if, and only if, a species does not qualify for listing as either endangered or threatened according to the ''all'' language. We note that the court in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), did not address this issue, and our conclusion is therefore consistent with the opinion in that case.

Therefore, we propose to list the black-capped petrel as a threatened species across its entire range in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

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

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification (*e.g.,* from endangered to threatened, also called ''downlisting'') or removal from listed status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, NGOs, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*), or from our Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, NGOs, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands, and areas outside of U.S. jurisdiction. If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of North Carolina would be eligible for Federal funds to implement management actions that promote the protection or recovery of the black-capped petrel because North Carolina State waters are the only place in the United States where the species is found aside from vagrant or extralimital occurrences. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although the black-capped petrel is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management of and any other landscape-altering activities on Federal waters used by the Department of Defense or National Oceanic and Atmospheric Administration (NOAA); and offshore energy activities of the Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE).

Provisions of Section 4(d) of the Act

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. Under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. The Secretary also has the discretion to prohibit, by regulation with respect to any threatened species of fish or wildlife, any act prohibited under section 9(a)(1) of the Act. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or

offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. The Service has exercised discretion under section 4(d) of the Act to develop a rule that is tailored to the specific threats and conservation needs of this species.

The black-capped petrel is protected by the Migratory Bird Treaty Act (MBTA). The MBTA makes it unlawful ''at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, [or] any part, nest, or egg of any such bird . . .'' included in the terms of four specific conventions between the United States and certain foreign countries (16 U.S.C. 703). See 50 CFR 10.13 for the list of migratory birds protected by the MBTA.

This proposed rule under section 4(d) of the Act adopts existing requirements under the MBTA as the appropriate regulatory provisions for the black-capped petrel. Accordingly, under the proposed 4(d) rule, incidental take is not prohibited, and purposeful take is not prohibited if the activity is authorized or exempted under the MBTA. Thus, if a permit is issued for activities resulting in purposeful take under the MBTA, it would not be necessary to have an additional permit under the Act.

The terms ''conserve'', ''conserving'', and ''conservation'' as defined by the Act, mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Due to threats acting on the black-capped petrel on the nesting grounds and the projected impacts to the species and its habitat in the foreseeable future, the viability of the species is expected to decline. The loss of habitat due to deforestation along with increased precipitation and drought events leave the species vulnerable to becoming endangered in the foreseeable future. The species that was once abundant continues to decline due to the conditions at the nesting locations on Hispaniola. The primary stressors to the species are occurring on the breeding grounds in Haiti and the Dominican Republic; therefore, prohibiting incidental take in the United States is not going to contribute meaningfully to the conservation of the species. Prohibiting unregulated, purposeful take is beneficial in order to protect the black-capped petrel from activities that may occur within U.S. territory and from import/export of the species or any of its parts, nests, or eggs.

For the reasons discussed above, we find that this rule under section 4(d) of the Act is necessary and advisable to provide for the conservation of the black-capped petrel. We do, however, seek public comment on whether there are additional activities that should be considered under the 4(d) provision for the black-capped petrel (see Information Requested, above). This proposal will not be made final until we have reviewed comments from the public and peer reviewers.

Critical Habitat Designation

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. In determining whether a designation would not be beneficial, the factors the Service may consider include but are not limited to, whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or whether any areas meet the definition of ''critical habitat.'' As explained below, we conclude that designation of critical habitat would not be beneficial to the black-capped petrel.

Breeding and Nesting Habitat

As stated previously in this proposed rule, black-capped petrels have only been confirmed to currently breed and nest on the island of Hispaniola within the countries of Haiti and the Dominican Republic. There are past anecdotal accounts and recent indirect indications of the possible nesting activity on the islands of Cuba and Dominica (Goetz *et al.* 2012, p. 13; Simons *et al.* 2013, p. S15; Brown 2015, entire). There are no historical or current records of the species nesting within the United States. Under Determination, above, we found that deforestation due to agricultural development and charcoal production (Factor A) due to increased population growth on Hispaniola is the primary current and future threat to the black-capped petrel. This present or threatened destruction, modification, or curtailment of the petrel's breeding and nesting habitat occurs outside of U.S. jurisdiction, and we can only designate critical habitat on lands under U.S. jurisdiction; therefore, we cannot designate the petrel's breeding and nesting habitat on Hispaniola as critical habitat for the species.

Marine, Foraging Habitat

The black-capped petrel is widely distributed throughout much of its range during the non-breeding season and is considered to have flexible foraging habitat requirements. The species tends to forage near areas of upwelling and other areas where prey species are abundant, and the species is typically found in warmer waters associated with the Gulf Stream (Haney 1987, p. 157; Simons *et al.* 2013, entire; Jodice *et al.* 2015, entire). The best scientific information available on foraging habitat suggests that where the black-capped petrel is found, it is widely distributed in pelagic waters offshore of the eastern United States down to northern South America. The species' foraging range extends approximately from latitude 40° North and south to 10° North near northern South America (Goetz *et al.* 2012, p. 4; Jodice *et al.* 2015, entire). Marine habitat contains elements that the black-capped petrel needs (foraging, resting, and commuting between nesting and foraging habitat); however, the best available information

indicates that the species' specific needs and preferences for these habitat elements are relatively flexible, plentiful, and widely distributed, and there are no habitat-based threats to the species in the foraging range.

Summary

The critical habitat regulations at 50 CFR 424.12(a)(1)(ii) provide two examples of when designating critical habitat may not be beneficial to the species and, therefore, may be not prudent. These examples are where the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or where there are no areas that meet the definition of ''critical habitat'' for the species. In the preamble to the final rule in which these two examples were expressly added to the regulations (81 FR 7414, February 11, 2016), the Service explains: ''[I]n some circumstances, a species may be listed because of factors other than threats to its habitat or range, such as disease, and the species may be a habitat generalist. In such a case, on the basis of the existing and revised regulations, it is permissible to determine that critical habitat is not beneficial and, therefore, not prudent. It is also permissible to determine that a designation would not be beneficial if no areas meet the definition of 'critical habitat' '' (81 FR 7425). Although the present or threatened destruction, modification, or curtailment of nesting habitat is a threat to the petrel's current breeding and nesting habitat, such habitat is not located within U.S. jurisdiction thus cannot be designated as critical habitat. The foraging habitat for the black-capped petrel falls within the second example; although there are extensive areas of foraging habitat within U.S. jurisdiction, the species faces no habitat-based threats there, and designation would not be beneficial to the species.

Therefore, we preliminarily conclude that the designation of critical habitat for the black-capped petrel is not prudent, in accordance with 50 CFR 424(a)(1), because destruction of habitat is not a threat to the species in the U.S. portions of the range. However, we seek public comment on the characteristics of black-capped petrel foraging habitat and its relationship to the needs of the species.

Required Determinations

Clarity of the Rule

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

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

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

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the internet at *http://www.regulations.gov* and upon request from the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. Amend § 17.11, paragraph (h), in the Table the ''List of Endangered and Threatened Wildlife'', under the heading BIRDS, by adding a new entry for ''Petrel, black-capped'' in alphabetical order to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
BIRDS				
*	*	*	*	*
Petrel, black-capped	*Pterodroma hasitata*	Wherever found	T	[**Federal Register** citation when published as a final rule]; 50 CFR 17.41(g).[4d]
*	*	*	*	*

■ 3. Amend § 17.41 by adding a paragraph (g) to read as set forth below:

§ 17.41 Special rules—birds.

* * * * *

(g) Black-capped petrel (*Pterodroma hasitata*).

(1) Except as noted in paragraphs (g)(2) and (g)(3) of this section, all prohibitions and provisions of §§ 17.31 and 17.32 of this part apply to the black-capped petrel.

(2) Incidental take of black-capped petrel is not prohibited.

(3) None of the prohibitions in § 17.31 of this part apply to any activity

conducted in a manner that is consistent with the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703–712, provided that the person carrying out the activity has complied with the terms and conditions that apply to that activity under the provisions of the MBTA and its implementing regulations.

* * * * *

Dated: September 20, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–21793 Filed 10–5–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2018–0076; 4500030113]

RIN 1018–BD19

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Coastal Distinct Population Segment of the Pacific Marten

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the coastal distinct population segment (DPS) of Pacific marten *(Martes caurina),* a mammal species from coastal California and Oregon, as a threatened species under the Endangered Species Act (Act). If we finalize this rule as proposed, it would extend the Act's protections to this species. The effect of this regulation will be to add this species to the List of Endangered and Threatened Wildlife.

DATES: We will accept comments received or postmarked on or before December 10, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 23, 2018.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2018–0076, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2018–0076; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

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

FOR FURTHER INFORMATION CONTACT: Dan Everson, Field Supervisor, U.S. Fish and Wildlife Service, Arcata Ecological Services Field Office, 1655 Heindon Road, Arcata, California 95521, or by telephone 707–822–7201. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The coastal marten's biology, range, and population trends, including:

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

(b) Genetics and taxonomy;

(c) Historical and current range including distribution patterns;

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

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

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) Information on activities that are necessary and advisable for the conservation of the coastal marten to include in a 4(d) rule for the species. Section 4(d) of the Act provides that when a species is listed as a threatened species, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Service has proposed such measures here and will evaluate ideas provided by the public in considering the prohibitions that are appropriate to include in the 4(d) rule.

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

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

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

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arcata Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Species Status Assessment

A species status assessment (SSA) team prepared an SSA report for the coastal marten. The SSA team was composed of Service biologists, who worked throughout the process with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. The SSA report underwent independent peer review by scientists with expertise in carnivore biology, habitat management, and stressors (factors negatively affecting the species) to the species. The SSA report and other materials relating to this proposal can be found on the Arcata Ecological Services Field Office website at *https://www.fws.gov/arcata/* and at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2018–0076, and at the Arcata Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Action

On September 28, 2010, we received a petition from the Center for Biological Diversity (CBD) and the Environmental Protection Information Center (EPIC), requesting that we consider for listing the (then-classified) subspecies Humboldt marten (*Martes americana humboldtensis*), or the (now-recognized) subspecies Humboldt marten (*M. caurina humboldtensis*), or the Humboldt marten DPS of the Pacific marten (*M. caurina*). The petitioners further stipulated that, based on recent genetic analyses indicating that populations of marten from coastal Oregon (considered members of *M. a. caurina*) are more closely related to *M. a. humboldtensis* than to *M. a. caurina* in the Cascades of Oregon (citing Dawson 2008, Slauson *et al.* 2009a), the range of the subspecies or DPS of the Humboldt marten should be expanded to include coastal Oregon populations of martens. In a letter to the petitioners dated October 22, 2010, we responded that we reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the species under section 4(b)(7) of the Act was not warranted.

On January 12, 2012, we published in the **Federal Register** a 90-day finding (77 FR 1900) that the petition presented substantial information indicating that listing may be warranted, and, subsequently, we initiated a status review. For purposes of the 90-day finding, the common name Humboldt marten referred to the then-classified American marten (*M. americana*) populations in coastal northern California and coastal Oregon.

On June 23, 2014, we published a scoping notice in the **Federal Register** (79 FR 35509) that summarized the uncertainty regarding the taxonomic classification of the subspecies (based on current genetics information) and indicated our intent to conduct an evaluation (for the 12-month finding) of a potential DPS of martens in coastal northern California and coastal Oregon relative to the full species classification level. On April 7, 2015, we published a not-warranted 12-month finding on the September 2010 petition (80 FR 18742).

On December 12, 2015, the Center for Biological Diversity and EPIC filed a complaint for declaratory and injunctive relief, alleging that our determination on the coastal marten violated the Act. By Order Re: Summary Judgment issued on March 28, 2017, the District Court for the Northern District of California remanded for reconsideration the Service's 12-month finding. On May 3, 2017, the court issued a stipulated order that the Service was to submit a 12-month finding to the **Federal Register** by October 1, 2018. This document serves as our 12-month finding on the September 2010 petition.

Background

A thorough review of the taxonomy, life history, and ecology of the coastal marten is presented in the SSA report (Service 2018; available at *https://www.fws.gov/arcata/* and at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2018–0076).

Our SSA report synthesizes the biology and status of the DPS of the Pacific marten (*Martes caurina*) in coastal Oregon and northern coastal California, commonly referred to as the coastal marten. On June 23, 2014, we published a notice in the **Federal Register** (79 FR 35509) that summarized the taxonomic classification of the subspecies (based on current genetic information) and indicated our intent to conduct an evaluation of a potential DPS of martens in coastal Oregon and coastal northern California relative to the full species classification level. On April 7, 2015, we published a DPS analysis (80 FR 18742) concluding that Pacific martens in coastal Oregon and northern coastal California were both discrete and significant and constituted a listable entity referred to collectively as the ''coastal DPS of the Pacific marten.'' This document and the associated SSA reflect our analysis of that DPS. Preliminary results of genetic evaluation of the Pacific marten indicate that coastal Oregon and northern coastal California marten populations likely represent a single subspecies (Slauson *et al.* 2009a, pp. 1338–1339; Schwartz *et al.* 2016, unpublished report) but the taxonomic change has not yet been published. In this case, our listable entity may be a subspecies, but the analysis maintains its validity.

The coastal marten is a medium-sized carnivore that historically occurred throughout the coastal forests of northwestern California and Oregon. Martens have a long and narrow body type typical of the mustelid family (*e.g.,* weasels, minks, otters, and fishers): Overall brown fur with distinctive coloration on the throat and upper chest that varies from orange to yellow to cream, large and distinctly triangular ears, and a bushy tail that is proportionally equivalent to about 75 percent of the head and body length. They are polygamous, with females solely responsible for raising young. Females do not mate until 15 months of age and, due to delayed implantation, will not produce their first litters until they are at least 24 months old. Juveniles disperse from their natal home range at around 6 months of age. Martens exhibit intrasexual territoriality, and dominant males maintain home ranges that encompass one or more female's home ranges.

In the wild, most martens live less than 5 years. In light of delayed implantation, a small proportion of female martens, perhaps 10 percent at best, are reproducing for more than 3 years, contributing to a slow reproductive output.

Coastal martens have a generalist diet that changes seasonally with prey availability. Overall, their diet is dominated by mammals, but birds, insects, and fruits are seasonally important. They need to eat 15–25 percent of their body mass daily to meet their metabolic requirements.

Martens tend to select older forest stands (*e.g.,* late-successional, old-

growth, large-conifer, mature, late-seral, structurally complex). These forests have a mixture of old and large trees, multiple canopy layers, snags and other decay elements, dense understory development, and biologically complex structure and composition.

Summary of Biological Status and Threats

The Act directs us to determine whether any species is an endangered species or a threatened species because of factors affecting its continued existence as set forth in section 4(a)(1) of the Act. The SSA report documents the results of our comprehensive biological status review for the coastal marten, including an assessment of the potential stressors to the species. It does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or threatened species under the Act. It provides the scientific basis that informs our regulatory decision, which involves the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report.

To evaluate the biological status of the coastal marten both currently and into the future, we assessed a range of conditions to allow us to consider the species' resiliency, redundancy, and representation (together, the 3Rs). The coastal marten needs multiple resilient populations distributed widely across its range to maintain persistence into the future and to avoid extinction. If populations lose resiliency, they are more vulnerable to extirpation, with resulting losses in representation and redundancy. Several factors influence whether coastal marten populations will increase to maximize habitat occupancy, which increases the resiliency of a population to stochastic events. These factors include the connectivity between populations, amount of suitable habitat for establishing home ranges, and amount of habitat that allows for predator avoidance. As we consider the future viability of the species, more populations with high resiliency distributed across the known range of the species are associated with higher overall species viability.

Coastal marten historically ranged throughout coastal Oregon and coastal northern California, but the species has not recently been detected throughout much of the historical range, despite extensive surveys. The species currently exists in four small (<100) populations and is absent from the northern and southern ends of its historical range. This current range is approximately 7.3 percent of its known historical range, with two populations in Oregon and two populations in California. The species has been extirpated from Sonoma and Mendocino Counties, CA, and largely from Humboldt, Del Norte, and Siskiyou Counties, CA. In Oregon, coastal martens have been largely extirpated from much of the inland counties within the historical range and are known to currently occur in Coos, Curry, Josephine, Douglas, Lane, and Lincoln Counties.

We have assessed the coastal marten's levels of resiliency, redundancy, and representation currently and into the future by first ranking the condition of each population. We ranked the four populations into three categories (high, moderate, and low) based on key population factors and habitat elements: Three between-population factors (least-cost path distance, filters, and number of populations in proximity) and four within-population factors (population size, available male home ranges, available female home ranges, and proportion of habitat subject to high predation risk). Least-cost path distance describes the distance a marten must travel for dispersal needs in order to reach the next closest population. Filters are barriers to this movement and can be either natural or manmade, such as large rivers or highways. This analysis provided condition categories to describe the resiliency of each population. A summary of this analysis is provided in Table 1.

Maintaining representation in the form of genetic or ecological diversity is important to maintain the coastal marten's capacity to adapt to future environmental changes. We consider the coastal marten to have representation in the form of two different ecological settings. Some animals are adapted to the dunes ecosystems of coastal dune forest, and others are adapted to late-seral forest and serpentine ridges. One population represents the dune ecological setting, and three represent the forest and serpentine ecological settings. Genetic variation between populations is unknown at this time, as no studies have been conducted to determine the degree of genetic variation between the four populations.

The coastal marten needs to have multiple resilient populations distributed throughout its range to provide for redundancy. The more populations, and the wider the distribution of those populations, the more redundancy the species exhibits. Based on the distributions of current verifiable marten detections and adjacent suitable habitat, we identified four extant population areas (EPAs) within coastal Oregon and northern coastal California:

(1) Central Coastal Oregon Extant Population Area;

(2) Southern Coastal Oregon Extant Population Area;

(3) Oregon–California Border Extant Population Area; and

(4) Northern Coastal California Extant Population Area.

Additional detections of coastal martens have occurred outside of the current EPAs but they did not meet the criteria of a population (most likely, they represent transient individuals in search of new territories) according to methods used in the Humboldt Marten Conservation Strategy and Assessment, a synthesis of literature on marten ecology developed by the Humboldt Marten Conservation Group. This group is made of State, Federal, Tribal, private, and non-governmental organizations in coastal Oregon and northwestern California to conserve and manage coastal martens.

TABLE 1—RESILIENCY OF COASTAL MARTEN POPULATIONS

[Data used to assign categories are included for each population and each factor]

Population (quantity of suitable habitat out of minimum convex polygon)	Between-population factors			Within-population factors				
	Least-cost path distance through suitable habitat	Number of filters	Number of populations in proximity (6–45 km)	Population Size	Number of available male home ranges	Number of available female home ranges	Proportion of suitable habitat that allows for predator avoidance	Overall current condition
Central Coastal Oregon—62 km²/403 km².	Low, 201 km	Low, >1	Low, 0	Low, 71	Low, 30	Low, 44	Low, 15%	Low.
Southern Coastal Oregon—1,103 km²/2,420 km².	Low, 65 km ...	Low, >1	Low, 0	Low, 12–<100	High, 276–368	High, 173–230	Moderate, 65%.	Low.

TABLE 1—RESILIENCY OF COASTAL MARTEN POPULATIONS—Continued

[Data used to assign categories are included for each population and each factor]

Population (quantity of suitable habitat out of minimum convex polygon)	Between-population factors			Within-population factors				
	Least-cost path distance through suitable habitat	Number of filters	Number of populations in proximity (6–45 km)	Population Size	Number of available male home ranges	Number of available female home ranges	Proportion of suitable habitat that allows for predator avoidance	Overall current condition
CA–OR Border—56 km²/206 km².	High, 14 km ..	Moderate, 1 ...	Moderate, 1 ...	Low, 12–<100	Low, 14–19 ...	Low, 7–9	High, 82%	Low–Moderate.
Northern Coastal CA—704 km²/1,170 km².	High, 14 km ..	Moderate, 1 ...	Moderate, 1 ...	Low, 80–100	High, 176–235	Moderate, 96–128.	Moderate, 52%.	Moderate.

Our analysis of the past, current, and future influences on what the coastal marten needs for long-term viability revealed that two factors pose the largest risk to future viability of the species. These risks are primarily related to habitat loss and associated changes in habitat quality and distribution and include: (1) A decrease in connectivity between populations; and (2) habitat conversion from that suitable for martens to that suitable for generalist predators and competitors, thereby increasing potential interactions and subsequent marten injury, mortality, or predation. These factors are all influenced by vegetation management, wildfire, and changing climate.

Predation of martens (Factor B) has increased due to the changes in forest composition. Bobcats are their predominant predator, with predation accounting for 41 percent of marten mortalities in one study, and the sources of all those predations being bobcat. Bobcats prefer regenerating harvested stands less than 30 years old, and are nearly absent from older forests, the preferred marten habitat. Martens are vulnerable to predation and increased competition in habitats that have been subject to either high–moderate severity fires or intensive logging in the last 40 years because both of these events remove the structural characteristics of the landscape that provide escape cover and are important to marten viability (canopy cover, shrub cover, etc.). These older forests have declined substantially from historical amounts: Older forests historically encompassed >75 percent of the coastal California area, 50 percent of the Klamath and Siskiyou region in northern California and southwest Oregon, and 25 to 85 percent of the Oregon Coast Range. Remaining older forests in the redwood region, Oregon Coast Range, and Klamath–Siskiyou region is estimated around 5, 20, and 38 percent, respectively, of what occurred historically.

In addition to logging, fires are a regular occurrence where the southern 3 marten populations occur; between 2000 and 2014, approximately 17 percent of the suitable habitat in the north coastal California population was burned. In the California—Oregon border population area, roughly 12 percent of suitable habitat was burned in the Longwood Fire of 1987. Substantial amounts of marten habitat in a population area can be burned in single fire events or over a few years at varying severities. Climate change is projected to result in longer fire seasons, producing more and larger fires. Fires large enough to totally encompass all or most of all four individual population areas are already occurring and are expected to increase, raising concern over the resiliency of at least the three southern marten population areas, which have been most affected by recent fires and are in a fire regime particularly vulnerable to future fires.

Dispersal is the means by which marten populations maintain and expand their distribution. Successful dispersal functional habitat between patches of habitat suitable for reproduction to maintain or expand population size and distribution. A resilient coastal marten population would have suitable habitat between populations that provides important habitat for key prey, abundant daily resting sites, and a maximum distance within the range of their average dispersal distance. Both Oregon populations do not have functional connectivity to any other population and if a stochastic or catastrophic event eliminated either of them, natural recolonization would not be feasible. The two California populations have connectivity to one another but not the Oregon populations.

In addition to being mostly isolated, all four populations are relatively small and face other threats in addition to habitat loss. Since 1980, 19 mortalities of coastal martens caused by vehicles (Factor E) have been documented, all in Oregon and mostly along U.S. Highway 101. We expect that some unknown amount of marten roadkills go undetected, so this is likely an underestimate of the number of martens killed by cars. Exposure to rodenticides (Factor E) through direct ingestion or the consumption of exposed prey has lethal and sub-lethal effects on coastal martens. Illegal marijuana cultivation sites on public, tribal, and private forest lands are implicated as the likely source of these rodenticides. In a similar carnivore species, 85% of carcasses tested were exposed to rodenticides, with the exposure in 13% being the direct cause of death.

Certain diseases (Factor C) are also a concern to martens and other carnivore populations, including canine distemper viruses (CDV), rabies viruses, parvoviruses, and the protozoan (single–celled organism) *Toxoplasma gondii.* We acknowledge that there has been limited testing of coastal martens for the presence of pathogens or exposure to pathogens, but exposure levels and ultimate effect on populations are difficult to document until an outbreak is actually observed. While larger populations might display a mass mortality as a result of disease infections, extinction or extirpation is rare. With population sizes estimated at less than 100 each for all four coastal marten populations, an outbreak in an individual population puts it at a higher risk for extirpation, particularly when diseases act synergistically with other threats.

The coastal marten faces a variety of risks including loss of habitat, wildfire, and increased predation risk. These risks play a large role in the resiliency and future viability of the coastal marten. Given the uncertainty regarding connectivity between populations, suitable habitat, and increases in predation within the populations, we forecasted what the coastal marten may have in terms of resiliency, redundancy, and representation under three plausible future scenarios. All three scenarios were forecast out over the next 15, 30, and 60 years. A range of

timeframes with a multitude of possible scenarios allows us to create a ''risk profile'' for the coastal marten and its viability into the future. Scenario 1 evaluates the future condition of the coastal marten if there is no change in trends in threats to the populations from what exists today, while the other two scenarios evaluate the response of the species to increases or decreases in the major factors that are influencing marten viability. While we do not expect every condition for each scenario to be realized, we are using these scenarios to bound the range of possibilities. Scenarios 2 and 3 are considered the ''outside bounds'' for the range of potential plausible future conditions. For each scenario we describe the stressors that would occur in each population. We use the best available science to predict trends in future stressors (timber harvest, wildfire, etc.). Data availability varies across States and populations. Where data on future trends is not available, we look to past trends and evaluate if it is reasonable to assume these trends will continue. The results of the analysis of resiliency in our plausible future scenarios are described in further detail in the SSA report and summarized in Table 2.

TABLE 2—COASTAL MARTEN POPULATION CONDITIONS UNDER EACH SCENARIO

Population	Current condition	Years into the future	Scenario 1	Scenario 2	Scenario 3
Central Oregon	Low	15	Low	Low	Low.
		30	Low	Low	Low–0.
		60	Low–0*	Low	Low–0
Southern Oregon	Low	15	Low	Low	Low.
		30	Low	Low	Low.
		60	Low	Low	Low.
CA–OR Border	Low–Mod	15	Low–Mod	Low–Mod	Low–Mod.
		30	Low–Mod	Low–Mod	Low–Mod.
		60	Low–Mod	Low–Mod	Low–Mod.
Northern Coastal California	Moderate	15	Moderate	Moderate	Moderate.
		30	Moderate	Mod–High	Moderate.
		60	Low–Mod	Mod–High	Low–Mod.

* 0 = extirpated.

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations in title 50 of the Code of Federal Regulations (at 50 CFR part 424), set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the coastal marten. The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act, either singly or in combination. A thorough analysis and discussion of the threats that may impact the coastal marten are included in the final SSA report (Service 2018, entire) associated with this document, and here we apply those threats to the statutory listing criteria to which they apply. We considered whether the coastal marten is presently in danger of extinction and determined that proposing endangered status is not appropriate. While threats are currently acting on the species and many of those threats are expected to continue into the future (see below), we did not find that the species is currently in danger of extinction throughout all of its range. With four populations occurring across the range of the species, the current condition of the species still provides for enough resiliency, redundancy, and representation such that it is not at risk of extinction now.

However, estimates of future resiliency, redundancy, and representation for the coastal marten are low. As discussed in greater detail in the SSA, the species faces a variety of threats including loss of habitat (Factor A) due to wildfire, timber harvest, and vegetation management. Trapping (Factor B), collisions with vehicles (Factor E), and rodenticides (Factor E) are all impacting marten individuals, and the threat of disease (Factor C) carries the risk of further reducing populations. Changes in vegetation composition and distribution have also made coastal martens more susceptible to predation (Factor C) from larger carnivores. These threats, which are expected to be exacerbated by the species' small and isolated populations (Factor E) and the effects of climate change (Factor E), were central to our assessment of the future viability of the coastal marten.

Given current and future decreases in resiliency, populations will become more vulnerable to extirpation from stochastic events, in turn, resulting in concurrent losses in representation and redundancy. The range of plausible future scenarios for coastal marten predicts decreased resiliency in all four currently extant populations. Under most modeled scenarios, the species is likely to lose enough resiliency, redundancy, and representation such that it is at risk of not being viable. All three scenarios presented as representative of plausible future scenarios create conditions where the coastal marten would not have enough resiliency, redundancy, or representation to sustain populations over time. While determining the probability of each scenario was not possible with the available data, the entire risk profile that was provided by looking across the range of the three plausible scenarios showed that the species will likely continue to lose resiliency, redundancy, and representation throughout the range in all scenarios.

In short, our analysis of the species' current and future conditions, including

the impact of the factors described in section 4(a)(1) of the Act, as well as the conservation efforts discussed below, show that the between-population and within-population factors used to determine the resiliency, representation, and redundancy for the species will continue to decline over the next 15–60 years. Consequently, the species is likely to become in danger of extinction throughout its range within the foreseeable future. We chose 15 years as a temporal extant for assessing the impact of stressors to marten populations in the near term because it is roughly the length of three marten generations and is a recommended timeframe established by the International Union for Conservation of Nature. We chose the two longer periods of 30 and 60 years as multiples of generation length (6 and 12 marten generations, respectively) and to provide a longer temporal extant to assess the threat of wildfire and climate change based on availability of wildfire data and climate models.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the coastal marten is likely to become an endangered species within the foreseeable future throughout its range, we find it unnecessary to proceed to an evaluation of potentially significant portions of the range. Where the best available information allows the Services to determine a status for the species rangewide, that determination should be given conclusive weight because a rangewide determination of status more accurately reflects the species' degree of imperilment and better promotes the purposes of the statute. Under this reading, we should first consider whether listing is appropriate based on a rangewide analysis and proceed to conduct a ''significant portion of its range'' analysis if, and only if, a species does not qualify for listing as either endangered or threatened according to the ''all'' language. We note that the court in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), did not address this issue, and our conclusion is therefore consistent with the opinion in that case.

Therefore, on the basis of the best available scientific and commercial information and in accordance with sections 3(6) and 4(a)(1) of the Act, we propose adding the coastal marten as a threatened species to the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h).

Available Conservation Measures

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

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*), or from our Arcata Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of California and Oregon would be eligible for Federal funds to implement management actions that promote the protection or recovery of the coastal marten. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although the coastal marten is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to

jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Several Federal agency actions that occur within the species' habitat may require conference or consultation or both as described in the preceding paragraph. These actions include management and any other landscape-altering activities on lands administered by the Service and the Department of the Interior's Bureau of Indian Affairs, Bureau of Land Management, and National Park Service and the Department of Agriculture's U.S. Forest Service; issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Department of Transportation's Federal Highway Administration or the California Department of Transportation (Cal Trans).

Provisions of Section 4(d) of the Act

Under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. The Secretary also has the discretion to prohibit by regulation with respect to any threatened species of fish or wildlife any act prohibited under section 9(a)(1) of the Act. The prohibitions of section 9(a)(1) of the Act make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered species of fish or wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife or fish that has been taken illegally. To the extent the section 9(a)(1) prohibitions apply only to endangered species, this proposed rule would apply those same prohibitions to the coastal marten with some exceptions, in accordance with section 4(d) of the Act.

The courts have recognized the extent of the Secretary's discretion to develop prohibitions, as well as exclusions from those prohibitions, that are appropriate for the conservation of a species. For example, the Secretary may decide not to prohibit take, or to put in place only limited take prohibitions. See *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002). In addition, as affirmed in *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988), the protective regulation for a species need not address all the threats to the species. As noted by Congress when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species.'' He may, for example, ''permit taking, but not importation of such species,'' or he may choose to forbid both taking and importation but allow the transportation of such species, as long as the measures will ''serve to conserve, protect, or restore the species concerned in accordance with the purposes of the Act'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Proposed 4(d) Rule for the Coastal Marten

Under this proposed section 4(d) rule, except as noted below, all prohibitions and provisions of section 9(a)(1) would apply to the coastal marten. The following management activities would not be subject to the general prohibitions of section 9(a)(1):

(1) Forestry management activities for the purposes of reducing the risk or severity of wildfire, such as fuels reduction projects, fire breaks, and wildfire firefighting activities.

(2) Forestry management activities included in a State-approved plan or agreement for lands covered by a Natural Communities Conservation Plan, Habitat Management Agreement, or Safe Harbor Agreement that addresses coastal marten as a covered species and is approved by the California Department of Fish and Wildlife under the authority of the California Endangered Species Act.

(3) Forestry management activities consistent with the conservation needs of the coastal marten. These include activities consistent with formal approved conservation plans or strategies, such as Federal or State plans and documents that include coastal marten conservation prescriptions or compliance, and for which the Service has determined that meeting such plans or strategies, or portions thereof, would be consistent with this proposed rule.

Although these management activities may result in some minimal level of harm or temporary disturbance to the coastal marten, overall, these activities benefit the subspecies by contributing to conservation and recovery. With adherence to the limitations described in the preceding paragraphs, these activities will have a net beneficial effect on the species by encouraging active forest management that creates and maintains the complex tree and shrub conditions needed to support the persistence of marten populations, which is essential to the species' long-term viability and conservation.

These provisions are necessary because, absent the protections of the Act, the species is likely to become in danger of extinction in the foreseeable future. Applying the prohibitions of the Act will minimize threats that could cause further declines in the status of the species. Additionally, these provisions are advisable because the species needs active conservation to maintain or improve the quality of its habitat, and to sustain and expand the species' population and occupied range. By exempting some of the forestry management activities from the prohibitions, these provisions can encourage cooperation by landowners and other affected parties in implementing conservation measures that will maintain or enhance habitat and expand the population of the species and its occupied range. These provisions will allow for use of the land while at the same time ensuring the maintenance or enhancement of suitable habitat and minimizing impacts to the species.

For activities funded, permitted, or carried out by a Federal agency that are not covered by the provisions and that may result in take, the Federal agency with jurisdiction would need to ensure, in consultation with the Service, that the activities are not likely to jeopardize the continued existence of the species. Private citizens who would like to have coverage for take resulting from activities not covered by these provisions may wish to seek an incidental take permit from the Service before proceeding with the activity (if there is no Federal nexus).

Based on the explanations above, the prohibitions under section 9(a)(1) would apply to the coastal marten throughout its range, with specific exemptions tailored to the conservation of the species. Nothing in this proposed 4(d) rule would change in any way the recovery planning provisions of section 4(f) and consultation requirements under section 7 of the Act or the ability of the Service to enter into partnerships

for the management and protection of the coastal marten.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Arcata Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Critical Habitat

Section 4(a)(3) of the Act, as amended, and implementing regulations in 50 CFR 424.12, require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be an endangered or threatened species. Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary of the Interior that such areas are essential for the conservation of the species.

Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when any of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. The regulations also provide that, in determining whether a designation of critical habitat would not be beneficial to the species, the factors that the Service may consider include but are not limited to: Whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or whether any areas meet the definition of ''critical habitat'' (50 CFR 424.12(a)(1)(ii)).

We do not know of any imminent threat of take attributed to collection or vandalism for the coastal marten. The available information does not indicate that identification and mapping of critical habitat is likely to initiate any threat of collection or vandalism. Therefore, in the absence of finding that the designation of critical habitat would increase threats to the species, if there are benefits to the species from a critical habitat designation, a finding that designation is prudent is appropriate.

The potential benefits of designation may include: (1) Triggering consultation under section 7 of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is unoccupied; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the protected species. Because designation of critical habitat would not likely increase the degree of threat to the coastal marten and may provide some measure of benefit, designation of critical habitat may be prudent for the coastal marten.

Our regulations (50 CFR 424.12(a)(2)) further state that critical habitat is not determinable when one or both of the following situations exists: (1) Information sufficient to perform required analysis of the impacts of the designation is lacking; or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of working with the States and other partners in acquiring the complex information needed to perform that assessment. The information sufficient to perform a required analysis of the impacts of the designation is lacking, and, therefore, we find designation of critical habitat for the coastal marten to be not determinable at this time.

Required Determinations

Clarity of the Rule

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

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

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

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. In development of the SSA, we sent letters noting our intent to conduct a status review and requested information from all tribal entities within the historical range of the coastal DPS of the Pacific marten, as well as providing a draft SSA Report to the Yurok Tribe for review. As we move forward in this listing process, we will continue to consult on a government-to-government basis with tribes as necessary.

Authors

The primary authors of this proposed rule are the staff members of the Service's Species Assessment Team, with assistance from the Arcata

Ecological Services Field Office and the Portland Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. Amend § 17.11(h) by adding an entry for ''Marten, Pacific (coastal DPS)'' to the List of Endangered and Threatened Wildlife in alphabetical order under MAMMALS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
Mammals				
*	*	*	*	* * *
Marten, Pacific (coastal DPS).	*Martes caurina*	Wherever found	T	[FEDERAL REGISTER citation when published as a final rule], 50 CFR 17.40(s).[4d]
*	*	*	*	* * *

* * * * *

■ 3. Amend § 17.40 by adding paragraph (s) to read as set forth below:

§ 17.40 Special rules—mammals.

* * * * *

(s) Coastal marten (*Martes caurina*).—(1) *Prohibitions.* Except as noted in paragraph (a)(2) of this section, all prohibitions and provisions of section 9(a)(1) of the Act apply to the coastal marten.

(2) *Exceptions from prohibitions.* Incidental take of the coastal marten will not be considered a violation of the Act if the take results from any of the following activities:

(i) Forestry management activities for the purposes of reducing the risk or severity of wildfire, such as fuels reduction projects, fire breaks, and wildfire firefighting activities.

(ii) Forestry management activities included in a State-approved plan or agreement for lands covered by a Natural Communities Conservation Plan, Habitat Management Agreement, or Safe Harbor Agreement that addresses coastal marten as a covered species and is approved by the California Department of Fish and Wildlife under the authority of the California Endangered Species Act.

(iii) Forestry management activities consistent with the conservation needs of the coastal marten. These include activities consistent with formal approved conservation plans or strategies, such as Federal or State plans and documents that include coastal marten conservation prescriptions or compliance, and for which the Service has determined that meeting such plans or strategies, or portions thereof, would be consistent with this rule.

* * * * *

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–21794 Filed 10–5–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2018–0069; 4500030113]

RIN 1018–BD36

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule and Critical Habitat Designation for Slenderclaw Crayfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and 12-month finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the slenderclaw crayfish (*Cambarus cracens*) as an endangered or threatened species under the Endangered Species Act of 1973 (Act), as amended. The slenderclaw crayfish is a relatively small, cryptic freshwater crustacean that is endemic to streams on Sand Mountain within the Tennessee River Basin in DeKalb and Marshall Counties, Alabama. After review of the best available scientific and commercial information, we find that listing the slenderclaw crayfish is warranted. Accordingly, we propose to list it as a threatened species. If we finalize this rule as proposed, it would extend the Act's protections to this species and, accordingly, add this species to the List of Endangered and Threatened Wildlife. We also propose a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the slenderclaw crayfish. In addition, we propose to designate approximately 78 river miles (126 river kilometers) in Alabama as critical habitat for the species under the Act. We announce the availability of a draft economic analysis of the proposed designation of critical habitat.

DATES: We will accept comments received or postmarked on or before December 10, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 23, 2018.

ADDRESSES: *Written comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2018–0069, which is the docket number for this rulemaking. Then, click on the Search button. On the

resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2018–0069, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

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

Supporting materials: The species status assessment (SSA) report and other materials relating to this listing proposal can be found on the Southeast Region website at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069.

For the critical habitat designation, the coordinates or plot points or both from which the maps are generated are included in the administrative record and are available at *https://www.fws.gov/southeast/,* at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069, and at the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Service website and Field Office set out above, and may also be included in the preamble and/or at *http://www.regulations.gov.* In addition, the draft economic analysis of the proposed critical habitat designation is available at *https://www.fws.gov/southeast/,* at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069, and at the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: William Pearson, Field Supervisor, U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office, 1208–B Main Street, Daphne, AL 36526; telephone 251–441–5870. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if we determine that a species may be an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal to list the species in the **Federal Register** and make a determination on our proposal within 1 year. To the maximum extent prudent and determinable, we must designate critical habitat for any species that we determine to be an endangered or threatened species under the Act. Listing a species as an endangered or threatened species and designation of critical habitat can only be completed by issuing a rule.

This rule proposes the listing of the slenderclaw crayfish (*Cambarus cracens*) as a threatened species, proposes a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the slenderclaw crayfish, and proposes the designation of critical habitat for this species.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that competition from a nonnative species (Factors A and E) and habitat degradation resulting from poor water quality (Factor A) pose the largest risk to the future viability of the slenderclaw crayfish.

Under section 4(a)(3) of the Act, we must, to the maximum extent prudent and determinable, designate critical habitat for the species concurrent with the listing determination. Section 4(b)(2) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. The Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed if such areas are essential to the conservation of the species. In accordance with section 4(b)(2) of the Act, we prepared an analysis of the economic impacts of the proposed critical habitat designation.

Peer review. In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of six appropriate specialists regarding the species status assessment report, which informs this proposed rule. The purpose of peer review is to ensure that our listing determination, critical habitat determination, and 4(d) rule are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in crayfish biology, habitat, and stressors to the species.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. Because we will consider all comments and information we receive during the comment period, our final determinations may differ from this proposal. We particularly seek comments concerning:

(1) The slenderclaw crayfish's biology, range, abundance, and population trends, including:

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

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

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

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

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

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

and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) Additional information concerning the nonnative virile crayfish (*Faxonius virilis*), including:

(a) Distribution, rate of spread, and effects of the virile crayfish on the slenderclaw crayfish; and

(b) Biological techniques or methods to control and manage the virile crayfish.

(6) Information on activities which might warrant consideration in the rule issued under section 4(d) of the Act (16 U.S.C. 1531 *et seq.*), including:

(a) Whether the provision in the proposed 4(d) rule related to streambank stabilization activities should be revised to include additional restrictions; and

(b) Additional provisions the Service may wish to consider for a 4(d) rule in order to conserve, recover, and manage the slenderclaw crayfish, such as the management of invasive species.

(7) The reasons why designation of habitat as ''critical habitat'' under section 4 of the Act is or is not prudent, including whether there are threats to the species from human activity and/or a lack of benefits of designating critical habitat.

(8) Specific information on:

(a) The amount and distribution of slenderclaw crayfish habitat;

(b) What areas, that were occupied at the time of listing and that contain the physical or biological features essential to the conservation of the species, should be included in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(9) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(10) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the benefits of including or excluding areas that may be impacted.

(11) Information on the extent to which the description of probable economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(12) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(13) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

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

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. All comments submitted electronically via *http://www.regulations.gov* will be presented on the website in their entirety as submitted. For comments submitted via hardcopy, we will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* You may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Please note that submissions merely stating support for or opposition to the listing action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.'' We also invite additional comments from peer reviewers during the public comment period.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests for a public hearing must be received by the date specified in **DATES** at the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of that hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Previous Federal Actions

On April 20, 2010, we were petitioned by the Center for Biological Diversity and others to list 404 aquatic species in the southeastern United States, including the slenderclaw crayfish, under the Act. In response to the petition, we completed a partial 90-day finding on September 27, 2011 (76 FR 59836), in which we announced our finding that the petition contained substantial information indicating that listing may be warranted for numerous species, including the slenderclaw crayfish. On June 17, 2014, the Center for Biological Diversity filed a complaint against the Service for failure to complete a 12-month finding for the slenderclaw crayfish in accordance with statutory deadlines. On September 22, 2014, the Service and the Center for Biological Diversity filed stipulated settlements in the District of Columbia, agreeing that the Service would submit to the **Federal Register** a 12-month finding for the slenderclaw crayfish no later than September 30, 2018 (*Center for Biological Diversity* v. *Jewell,* case 1:14–CV–01021–EGS/JMF). We have conducted the species status assessment (SSA) for the species, and this document constitutes our concurrent 12-month warranted petition finding, proposed listing rule, and proposed critical habitat rule.

Species Status Assessment Report

An SSA team prepared an SSA report for the slenderclaw crayfish. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. The SSA report underwent independent peer review by scientists with expertise in crayfish biology, habitat management, and stressors (factors negatively affecting the species) to the slenderclaw crayfish. The SSA report and other materials relating to this proposal can be found on the Southeast Region website at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the slenderclaw crayfish is presented in the SSA report (Service 2018, entire; available at *https://www.fws.gov/southeast/* and at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069).

Species Description

The slenderclaw crayfish is a relatively small, cryptic freshwater crustacean that is endemic to streams on Sand Mountain within the Tennessee River Basin in DeKalb and Marshall Counties, Alabama. This species is a stream-dwelling crayfish and is considered a tertiary burrower (Bearden 2017, pers. comm.). The slenderclaw crayfish was described in 1976, from collections from Short Creek in Marshall County, Alabama (Bouchard and Hobbs 1976, p. 7). The largest individual collected was a female with a carapace length of 1.56 inches (in) (39.7 millimeters (mm)), and reproductively-active males have ranged from 1.09 in (27.7 mm) to 1.47 in (37.3 mm) in carapace length (Bouchard and Hobbs, pp. 7–8). The slenderclaw crayfish is likely sexually mature at 1 year of age and has a lifespan of 2 to 3 years (Schuster 2017, pers. comm.).

Distribution

The slenderclaw crayfish is known to occupy streams in two adjacent watersheds, Short Creek and Town Creek, leading into Guntersville Lake on the Tennessee River in Alabama. The historical (1970–1974) range of the slenderclaw crayfish included four small streams or tributaries within the two watersheds, and the species was known from five sites: One site in Short Creek, one site in Shoal Creek, and two sites in Scarham Creek within the Short Creek population; and one site in Bengis Creek within the Town Creek population (Bouchard and Hobbs 1976, p. 7). The slenderclaw crayfish is currently extant at five sites: Three sites in Shoal Creek within the Short Creek population, and two sites (one in Bengis Creek and one in Town Creek) within the Town Creek population. The species is presumed extirpated from four historically occupied sites, including the type locality within the Short Creek population.

Habitat

The slenderclaw crayfish occupies small to medium flowing streams (typically 20 feet (ft) (6.1 meters (m) wide or smaller, with depths of 2.3 ft (0.7 m) or shallower), intact riparian cover, and boulder/cobble structure (Bouchard and Hobbs 1976, p. 8; Bearden 2017, pers. comm.). The stream habitat consists of predominately large boulders and fractured bedrock in sites from the Short Creek watershed (Bouchard and Hobbs 1976, p. 8; Bearden 2017, pers. comm.) and streams dominated by smaller substrate types with a mix of gravel and cobble in sites from the Town Creek watershed (Bearden 2017, pers. comm.). The species needs abundant interstitial space within each habitat type for sheltering (Schuster 2017, pers. comm.; Taylor 2017, pers. comm.) and adequate seasonal water flows to maintain benthic habitats and maintain connectivity of streams. During low stream flow periods, slenderclaw crayfish appear to use any available water, so during the low water flow events, individuals have been found in pool habitats or near undercut banks (Bearden 2017, pers. comm.). Slenderclaw crayfish likely feed upon aquatic macroinvertebrates in the juvenile stage and shift toward omnivory in the adult stage (Schuster 2017, pers. comm.).

Summary of Biological Status and Threats

Section 4(a)(1) of the Act directs us to determine whether any species is an endangered species or a threatened species because of one or more of five factors affecting its continued existence: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The SSA report documents the results of our comprehensive biological status review for the slenderclaw crayfish, including an assessment of these potential stressors to the species (factors). It does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or a threatened species under the Act. It does, however, provide the scientific basis that informs our regulatory decision, which involves the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report.

To assess slenderclaw crayfish viability, we used the three conservation biology principles of resiliency, representation, and redundancy (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency refers to the ability of a species to withstand environmental and demographic stochasticity (for example, wet or dry years, flood events); representation refers to the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes); and redundancy refers to the ability of the species to withstand catastrophic events (for example, droughts). In general, the more redundant and resilient a species is and the more representation it has, the more likely it is to sustain

populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the factors, both beneficial and risk, influencing the species' viability.

The SSA process can be divided into three sequential stages. During the first stage, we evaluated the life-history needs of individual slenderclaw crayfish, assessed the historical and current distribution of the species, and delineated populations. During the next stage, we assessed the current condition of the species' demographics and habitat characteristics, including explaining how it arrived at its current condition. In the final stage, we made predictions about the species' responses to positive and negative environmental and anthropogenic influences. This process used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We utilized this information to inform our regulatory decision in this finding.

To evaluate the current and future viability of the slenderclaw crayfish, we assessed a range of conditions to allow us to consider the species' resiliency, representation, and redundancy. Populations were delineated using the U.S. Geological Survey Hydrological Unit Code (HUC) 12 watershed boundaries and tributaries leading to the Tennessee River, which species experts identified as the most appropriate unit for assessing population-level resiliency; this delineation aligned with the two watersheds, Short and Town Creeks, that slenderclaw crayfish historically occupied.

To assess resiliency, we qualitatively analyzed data related to two demographic factors (abundance and evidence of reproduction) and two habitat factors (presence of virile crayfish and water quality). Overall population condition rankings were determined by combining the demographic and habitat factors.

Finally, we described representation for the slenderclaw crayfish in terms of habitat variability (known from two slightly different habitat types) and morphometric variability (as described above under *Species Description*). We assessed slenderclaw crayfish redundancy by evaluating the number and distribution of resilient populations throughout the species' range.

Current Condition of Slenderclaw Crayfish

The historical range of the slenderclaw crayfish included two known populations, Short and Town Creeks, in watersheds leading into the Tennessee River in Alabama. Within the Short Creek population, 90 total slenderclaw crayfish, with 56 of those being juveniles, were collected from 1970–1974 (Bouchard and Hobbs 1976, entire; Schuster 2017, unpublished data). Only one crayfish was historically collected in the Town Creek population from 1970–1974 (Bouchard and Hobbs 1976, entire; Schuster 2017, unpublished data). Surveys conducted from 2009–2017 have documented the slenderclaw crayfish within the same two populations, Short Creek (three sites in Shoal Creek) and Town Creek (one site in Bengis Creek and one site in Town Creek) (Kilburn *et al.* 2014, pp. 116–117; Bearden *et al.* 2017, pp. 17–18; Schuster 2017, unpublished data; Taylor 2017, unpublished data). Of the five historical sites, the slenderclaw crayfish is no longer found and is presumed extirpated at four sites (one site in Short Creek, two sites in Scarham Creek, and one site in Bengis Creek) despite repeated survey efforts (Kilburn *et al.* 2014, pp. 116–117; Bearden *et al.* 2017, pp. 17–18; Schuster 2017, unpublished data; Taylor 2017, unpublished data). Across current survey efforts from 2009–2017, 28 slenderclaw crayfish, including 2 juveniles, were collected within the Short Creek population, and 2 adult and 2 juvenile slenderclaw crayfish were collected from the Town Creek population. It should be noted that there are no actual historical or current population estimates for slenderclaw crayfish, and the abundance numbers (total number collected) reported are not population estimates.

At the population level, the overall current condition in terms of resiliency was estimated to be low for both Short Creek and Town Creek populations. We estimated that the slenderclaw crayfish currently has some adaptive potential (*i.e.,* representation) due to the habitat variability features occurring in the Short Creek and Town Creek populations. The Short Creek population occurs in streams with predominantly large boulders and fractured bedrock, broader stream widths, and greater depths, and the Town Creek population occurs in streams with larger amounts of gravel and cobble, narrower stream widths, and shallower depths (Bearden 2017, pers. comm.). At present, the slenderclaw crayfish has two populations in low condition (resiliency) with habitat types that vary between populations. Therefore, given the variable habitat in which the slenderclaw crayfish occurs, the species may have some level of adaptive capacity, given the low resiliency of both populations of the slenderclaw crayfish, current representation is reduced.

The slenderclaw crayfish exhibits limited redundancy given its narrow range and that four out of five sites within the species' historical range are presumed extirpated. In addition, connectivity between the Short Creek and Town Creek populations is likely low, because both Short and Town Creek streams flow downstream into, and thus are separated by, Guntersville Lake. To date, no slenderclaw crayfish have been documented in impounded areas including Guntersville Lake. Multiple sites in the same population could allow recolonization following a catastrophic event (*e.g.,* chemical spill) that may affect a large proportion of a population; however, given the species' limited redundancy and current low resiliency of both populations, it might be difficult to re-establish an entire population affected by a catastrophic event, as the connectivity between the two populations is low. Further, the currently occupied sites in the Short Creek population are in a single tributary, and one catastrophic event could impact this entire population.

Risk Factors for Slenderclaw Crayfish

We reviewed the potential risk factors (see discussion of section 4(a)(1) of the Act, above) that are affecting the slenderclaw crayfish now and are expected to affect it into the future. We have determined that competition from a nonnative species (Factors A and E) and habitat degradation resulting from poor water quality (Factor A) pose the largest risk to the future viability of the slenderclaw crayfish. Other potential stressors to the species are hydrological variation and alteration (Factors A and E), land use (Factor A), low abundance (Factor E), and scientific collection (Factor B). There are currently no existing regulatory mechanisms that adequately address these threats to the slenderclaw crayfish such that it does not warrant listing under the Act (Factor D). We find the species does not face significant threats from disease or predation (Factor C). We also reviewed the conservation efforts being undertaken for the habitat in which the slenderclaw crayfish occurs. A brief summary of relevant stressors is presented below; for a full description, refer to chapter 3 of the SSA report.

Nonnative Species

The virile crayfish (*Faxonius virilis*), previously recognized as *Orconectes virilis* (Crandall and De Grave 2017, p. 5), is a crayfish native to the Missouri, upper Mississippi, lower Ohio, and the Great Lakes drainages (USFWS 2015, p. 1). The species has spread from its native range through dispersal as fishing bait, as pets, and through commercial (human) consumption (Schwartz *et al.* 1963, p. 267; USFWS 2015, p. 4). Virile crayfish inhabit a variety of watersheds in the United States, including those with very few to no native crayfish species, and have been documented in lake, wetland, and stream environments (Larson *et al.* 2010, p. 2; Loughman and Simon 2011, p. 50). Virile crayfish are generalists, able to withstand various conditions, and have the natural tendency to migrate (Loughman and Simon 2011, p. 50). This species has been documented to spread approximately 124 mi (200 km) over 15 years (B. Williams 2018, pers. comm.; Williams *et al.* 2011, entire).

Based on comparison of body size, average claw size, aggression levels, and growth rates, it appears that virile crayfish has an ecological advantage over several native crayfish species, including those in the *Cambarus* and *Procambarus* genera (Hale *et al.* 2016, p. 6). In addition, virile crayfish have been documented to displace native crayfish (Hubert 2010, p. 5).

Virile crayfish were first collected near the range of slenderclaw crayfish in 1967 (Schuster 2017, unpublished data). Since then, the virile crayfish has been documented in Guntersville Lake (a Tennessee Valley Authority reservoir constructed in 1939, on the Tennessee River mainstem) (Schuster 2017, unpublished data; Taylor 2017, unpublished data). In addition, the virile crayfish was found at the type locality (location where the species was first described) for the slenderclaw crayfish in Short Creek (Short Creek population) in 2015, in which the slenderclaw crayfish no longer occurs (Schuster 2017, unpublished data; Taylor 2017, unpublished data). In 2016, the virile crayfish was found at two sites in Drum Creek within the Short Creek population boundary and at the confluence of Short Creek and Guntersville Lake (Schuster 2017, unpublished data; Taylor 2017, unpublished data). During 2017, 20 virile crayfish were found again at the location where slenderclaw crayfish was first described in Short Creek (Taylor 2017, unpublished data). Also during 2017, this nonnative crayfish was documented at four new sites in adjacent watersheds outside of the Short Creek population boundary. Juvenile virile crayfish have been collected in the Short Creek population, indicating that the species is established there (Taylor 2017, unpublished data). To date, no virile crayfish have been documented within the Town Creek population boundary (Schuster 2017, unpublished data; Taylor 2017, unpublished data).

The adaptive nature of the virile crayfish, the effects of this nonnative species on other crayfish species in their native ranges, and records of the virile crayfish's presence in the slenderclaw crayfish's historical and current range indicate that the virile crayfish is a factor that negatively influences the viability of the slenderclaw crayfish in the near term and future. Also, considering that the virile crayfish is a larger crayfish, is a strong competitor, and tends to migrate, while the slenderclaw crayfish has low abundance and is a smaller-bodied crayfish, it is reasonable to infer that once the virile crayfish is established at a site, it will out-compete slenderclaw crayfish.

Water Quality

Direct impacts of poor water quality on the slenderclaw crayfish are unknown; however, aquatic macroinvertebrates (*i.e.,* mayflies, caddisflies, stoneflies) are known to be negatively affected by poor water quality, and this may indirectly impact the slenderclaw crayfish, which feeds on them. Degradation of water quality has been documented to impact aquatic macroinvertebrates and may even cause stress to individual crayfish (Arthur *et al.* 1987, p. 328; Devi and Fingerman 1995, p. 749; Rosewarne *et al.* 2014, p. 69). Although crayfish generally have a higher tolerance to ammonia than some aquatic species (*i.e.,* mussels), their food source, larval insects, is impacted by ammonia at lower concentrations (Arthur *et al.* 1987, p. 328). Juvenile slenderclaw crayfish likely feed exclusively on aquatic macroinvertebrates, which are impacted by elevated ammonia and poor water quality.

Within the range of the slenderclaw crayfish, Scarham Creek and Town Creek were identified as impaired waters by the Alabama Department of Environmental Management (ADEM), and were listed on Alabama's 303(d) list of impaired water bodies (list of waterbodies that do not meet established state water quality standards) in 1996 and 1998, respectively (ADEM 1996, p. 1; ADEM 2001, p. 11). Scarham Creek was placed on the 303(d) list for impacts from pesticides, siltation, ammonia, low dissolved oxygen/organic enrichment, and pathogens from agricultural sources; this section of Scarham Creek stretched 24 mi (39 km) upstream from its confluence with Short Creek to its source (ADEM 2013, p. 1). However, Scarham Creek was removed from Alabama's 303(d) list of impaired waters in 2004, after the total maximum daily loads (TMDLs; maximum amount of a pollutant or pollutants allowed in a water body while still meeting water quality standards) were developed in 2002 (ADEM 2002, p. 5; ADEM 2006, entire). Town Creek was previously listed on the 303(d) list for ammonia and organic enrichment/dissolved oxygen impairments. Although TMDLs have been in development for these issues (ADEM 1996, entire), all of Town Creek is currently on the 303(d) list for mercury contamination due to atmospheric deposition (ADEM 2016a, appendix C). One identified source of wastewater discharge to Town Creek is Hudson Foods near Geraldine, Alabama (ADEM 1996, p. 1).

Pollution from nonpoint sources stemming from agriculture, animal production, and unimproved roads has been documented within the range of the slenderclaw crayfish (Bearden *et al.* 2017, p. 18). Alabama is ranked third in the United States for broiler (chicken) production (Alabama Poultry Producers 2017, unpaginated), and DeKalb and Marshall Counties are two of the four most active counties in Alabama for poultry farming (Conner 2008, unpaginated). Poultry farms and poultry litter (a mixture of chicken manure, feathers, spilled food, and bedding material that frequently is used to fertilize pastureland or row crops) have been documented to contain nutrients, pesticides, bacteria, heavy metals, and other pathogens (Bolan *et al.* 2010, pp. 676–683; Stolz *et al.* 2007, p. 821). A broiler house containing 20,000 birds will produce approximately 150 tons of litter a year (Ritz and Merka 2013, p. 2). Surface-spreading of litter allows runoff from heavy rains to carry nutrients from manure into nearby streams. Poultry litter spreading is a practice that occurs within the Short Creek watershed (Short Creek population of slenderclaw crayfish) (TARCOG 2015, p. 8).

During recent survey efforts for the slenderclaw crayfish, water quality analysis indicated that water quality was impaired due to nutrients and bacteria within the Short Creek population, and levels of atrazine may be of concern in the watershed (Bearden *et al.* 2017, p. 32). In Bengis Creek (Town Creek population), water quality analysis found lead measurements that exceeded the acute and chronic aquatic

life criteria set by the U.S. Environmental Protection Agency and ADEM (Bearden *et al.* 2017, p. 32; ADEM 2017, p. 10–7). These criteria are based on levels developed by the U.S. Environmental Protection Agency and ADEM to protect fish and wildlife (ADEM 2017, entire), and exceedance of these values is likely to harm animal or plant life (U.S. Environmental Protection Agency 2018b, unpaginated). Elevated ammonia concentrations in Town Creek were also documented and reflected nonpoint source pollution at low flow and high flow measurements (Bearden *et al.* 2017, p. 21). In late summer and fall surveys, potential eutrophication likely stemming from low water conditions, elevated nutrients, and low dissolved oxygen was documented within both Short and Town Creek watersheds (Bearden *et al.* 2017, p. 31).

Hydrological Alteration and Variation

Dams and reservoirs on the Tennessee River have reduced connectivity between slenderclaw crayfish populations by altering some of the habitat from a flowing stream to standing, impounded water. The Town Creek and Short Creek watersheds, each containing one of the two extant populations of the slenderclaw crayfish, drain into Guntersville Lake, a Tennessee Valley Authority reservoir constructed in 1939, on the Tennessee River. Despite survey efforts, no slenderclaw crayfish has been found in Guntersville Lake, and to date, the slenderclaw crayfish has not been documented in any impounded areas. Guntersville Lake likely poses a barrier between the two slenderclaw crayfish populations and prevents the exchange of genetic material (Schuster 2017, unpublished data). It should be noted that slenderclaw crayfish was first collected in 1970 (approximately 31 years after the completion of Guntersville Lake), and, therefore, the range of the slenderclaw crayfish prior to Guntersville Lake's creation is unknown, and the impacts of the lake's creation on the slenderclaw crayfish during that time are unknown.

Streams on Sand Mountain, which include streams in Short and Town Creek watersheds, are prone to seasonal low water conditions during the fall and early winter months before the winter wet season (USGS 2017, unpaginated), and the Pottsville aquifer is not a reliable source of large amounts of groundwater for recharge of these streams (Kopaska-Merkel *et al.* 2008, p. 19). Therefore, these streams are vulnerable to changes in hydrology and water availability. In addition to the seasonal low water conditions, there is a high number of small impoundments on Sand Mountain (Holley 2017, pers. comm.) that further alter the hydrology and available surface water in these streams. In the future, if these streams have a further reduction in water availability due to hydrological alteration or natural variation, this could be a factor that negatively influences the viability of the slenderclaw crayfish.

Land Use

Within DeKalb and Marshall Counties, the amount of land area in farms (pastureland, poultry production, and row crop production) has decreased over time (Bearden *et al.* 2017, p. 27). Prior to the discovery of the slenderclaw crayfish, DeKalb and Marshall Counties' total acreage in farms in 1969 was 60 percent (299,316 acres (ac) (121,128 hectares (ha))) and 51 percent (205,105 ac (83,003 ha)), respectively, which included pastureland, poultry production, and row crop production (USDA 1972, p. 285). By 2012, the total acreage in farms had decreased to 46 percent (229,294 ac (92,792 ha)) and 41 percent (162,980 ac (65,956 ha)) in DeKalb and Marshall Counties, respectively (USDA 2014, pp. 230, 234). However, although the amount of area in farm land has decreased since 1969, water quality is still impacted by agricultural practices, as discussed above (Bearden *et al.* 2017, p. 18). In the future, land use is not expected to change drastically; however, a change from agriculture and poultry farming to urban uses could potentially impact the slenderclaw crayfish. The expansion of urban areas could reduce available habitat for the slenderclaw crayfish, as well as increase impervious surfaces and resultant runoff, which can reduce water quality.

Low Abundance and Scientific Collection

The current estimated low abundance (n=32), scientific collection, and genetic drift may negatively affect populations of the slenderclaw crayfish. In general, the fewer populations a species has or the smaller its population size, the greater the likelihood of extinction by chance alone (Shaffer and Stein 2000, p. 307). Genetic drift occurs in all species, but is more likely to negatively affect populations that have a smaller effective population size (Caughley 1994, pp. 219–220; Huey *et al.* 2013, p. 10). There are only two populations of the slenderclaw crayfish with limited connectivity between those populations, which may have reduced genetic diversity. However, no testing for genetic drift has been conducted for the slenderclaw crayfish.

Due to its small size, slenderclaw crayfish are difficult to identify in the field during surveys. Therefore, experts have historically collected individuals for later identification, resulting in removal of individuals from the populations. These vouchered specimens are important for identification and documentation purposes; however, if collection is removing breeding adults from the population, then it could make the overall population unsustainable as individual populations may decline. With the current estimated low number of individuals (n=32), as evidenced by low capture rates, collection, and particularly repeated collection (for example, in multiple subsequent years), could further deplete the number of breeding adults.

Synergistic Effects

In addition to impacting the species individually, it is likely that several of the above summarized risk factors are acting synergistically or additively on the species. The combined impact of multiple stressors is likely more harmful than a single stressor acting alone. For example, in the Town Creek watershed, Town Creek was previously listed as an impaired stream due to ammonia and organic enrichment/dissolved oxygen impairments, and recent surveys documented eutrophic conditions of elevated nutrients and low dissolved oxygen. In addition, hydrologic variation and alteration has occurred within the Town Creek watershed. Low water conditions naturally occur in streams where the slenderclaw crayfish occurs, and alteration causing prolonged low water periods could have a negative impact on the reproductive success of the slenderclaw crayfish. Further, connectivity between Town Creek and Short Creek watersheds is likely low due to Guntersville Lake. The combination of all of these stressors on the sensitive aquatic species in this habitat has probably impacted slenderclaw crayfish, in that only four individuals have been recorded here since 2009.

Conservation Actions

TMDLs have been developed in Scarham Creek for siltation, ammonia, pathogens, organic enrichment/low dissolved oxygen, and pesticides (ADEM 2002, p. 5). Town Creek is currently on the 303(d) list for mercury contamination due to atmospheric deposition (ADEM 2016a, appendix C). However, a TMDL for organic enrichment/dissolved oxygen has been

developed for Town Creek (ADEM 1996, entire). Through the 303(d) program, ADEM provides section 319 funding targeting the watersheds to improve water quality. In 2014, the Upper Scarham Creek Watershed was selected as a priority by ADEM for the development of a watershed management plan. In Fiscal Year 2016, the DeKalb County Soil and Water Conservation District contracted with ADEM to implement the Upper Scarham Creek Watershed Project using section 319 funding (ADEM 2016b, p. 39).

The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) National Water Quality Initiative program identified the Guntersville Lake/Upper Scarham Creek in DeKalb County as an Alabama Priority Watershed in 2015 (NRCS 2017, unpaginated). This watershed is within the historical range of the slenderclaw crayfish. It is recognized as in need of conservation practices, as it was listed on the Alabama 303(d) list as impaired due to organic enrichment/low dissolved oxygen and ammonia as nitrogen (ADEM 2002, p. 4). The National Water Quality Initiative helps farmers, ranchers, and forest landowners improve water quality and aquatic habitats in impaired streams through conservation and management practices. Such practices include controlling and trapping nutrient and manure runoff, and installation of cover crops, filter strips, and terraces.

Future Scenarios

For the purpose of this assessment, we define viability as the ability of the species to sustain populations in the wild over time. To help address uncertainty associated with the degree and extent of potential future stressors and their impacts on the needs of the species, the concepts of resiliency, redundancy, and representation were applied using three plausible future scenarios. We devised these scenarios by identifying information on the following primary stressors that are anticipated to affect the species in the future: Nonnative virile crayfish, hydrological variation (precipitation and water quantity), land-use change, and water quality.

Our three scenarios reflected differing levels of impacts on hydrological variation (precipitation change), land-use change, and nonnative virile crayfish spread. In the future, the virile crayfish will expand farther and is anticipated to occupy both the Short Creek and Town Creek watersheds where slenderclaw crayfish is known to occur. Water quality may improve on Sand Mountain; however, the presence of virile crayfish is expected to be a more powerful driver in the future condition of the slenderclaw crayfish. In addition, the effect of the other factors identified to be impacting the species is expected to reduce available habitat through time.

To understand how precipitation will change in the future and apply this to our future scenarios, we used the U.S. Geological Survey's National Climate Change Viewer (Alder and Hostetler 2013, entire) to predict change in precipitation through 2040. We used the Slope, Land use, Excluded, Urban, Transportation and Hillshade (SLEUTH–3r) urban-growth model to explore potential land-use change and urbanization on Sand Mountain and the surrounding area through 2040 (Belyea and Terando 2013, entire; Terando et al. 2014, entire). Regarding spread of virile crayfish, there is uncertainty regarding the rate at which the virile crayfish is expected to expand, and it has been documented to spread at a rate of approximately 124 mi (200 km) over 15 years (3,609 ft per month (1,100 m per month)) (Williams 2018, pers. comm.; Williams *et al.* 2011, entire). However, we applied the approximate natural rate of spread (1,640 ft per month (500 m per month)) (Wong 2014, p. 4) to known virile crayfish locations to estimate virile crayfish occupation of known slenderclaw crayfish sites. Then, we projected how these stressors would change over time and developed future scenarios at three time periods: 2020, 2030, and 2040. Given the documented rate of virile crayfish spread of 124 mi (200 km) over 15 years (Williams 2018, pers. comm.) and that the virile crayfish was found at the type locality for the slenderclaw crayfish in 2015 (Schuster 2017, unpublished data), we chose a first time-step of 2020 to assess the earlier stages of virile crayfish spread, and we chose an ending time step of 2040 because we were reasonably certain we could forecast the virile crayfish's spread, as well as precipitation and land-use change, to this time period. However, the time period for our projections begins in 2017, as this was the end of our current condition timeframe. Brief descriptions of the three scenarios are below; for more detailed information on these scenarios and projections used to inform these scenarios, please see the SSA report (Service 2018, chapter 5).

In Scenario 1, we projected continuation of the current rate of seasonal low water events, continued impact from land-use on water quality, low level of urban sprawl, and continued rate of virile crayfish spread to 2040. Current impacts to the landscape due to farming practices are expected to continue as evident in the water quality conditions, and low water events during the late summer to winter season will also continue. We expect the virile crayfish to spread farther into the Short Creek population, specifically into the currently occupied Shoal Creek sites, and to occupy the Town Creek population and its known slenderclaw crayfish sites. This Shoal Creek site is currently considered the most abundant slenderclaw crayfish location (n=26) (Schuster 2017, unpublished data; Bearden *et al.* 2017, p. 17); we expect that abundance of this population will be reduced, and the population will be in low to extirpated condition by 2040. We expect that by 2040, the Short Creek population of the slenderclaw crayfish will be extirpated and all currently known sites will be occupied by the virile crayfish. By 2040, in the Town Creek population, we expect that the virile crayfish will occupy the slenderclaw crayfish's sites on Bengis and Town creeks, but the slenderclaw crayfish will still be present, though in very low abundance.

In Scenario 2, we projected a continuation of the current rate of seasonal low water events, but with additional conservation measures to improve and protect water quality, a reduced level of urban sprawl, and a slower rate of virile crayfish spread to 2040. We projected that best management practices and conservation programs would improve conditions on farm land, and, therefore, water quality conditions gradually improve. Low water events during the late summer to winter season will continue, but will not become longer than the current average. Although this scenario projected a lower rate of spread than Scenario 1, the virile crayfish is still expected to spread farther into the Short Creek population and will occupy the lower reaches of the Town Creek mainstem in the Town Creek population by 2040. Despite improved water quality conditions for the slenderclaw crayfish and aquatic macroinvertebrates, we expect that the presence of virile crayfish will still cause the extirpation of the slenderclaw crayfish in the Short Creek population, and keep the Town Creek population in low condition, by 2040.

In Scenario 3, we projected an increased frequency and extended rate of seasonal low water events, reduction in water quality from poor land management practices, a moderate to high rate of urban sprawl, and a faster rate of virile crayfish spread to 2040. We expect that poor land management practices will result in degraded water

quality and negative impacts to the macroinvertebrate community. We expect that longer and more frequent low water events during the late summer to winter season will impact critical life stages of the slenderclaw crayfish. In addition, we projected virile crayfish to spread more rapidly than in the other two scenarios. With the faster rate of spread, we expect the virile crayfish to be present at all currently known locations of the slenderclaw crayfish in the Short Creek population by 2020, and this population extirpated by 2030. By the year 2040, we expect that the virile crayfish will occupy all currently known sites in the Town Creek slenderclaw crayfish population, and, therefore, we expect this population to be extirpated as well.

In summary, the resiliency of the Short Creek population is expected to remain low under Scenarios 1 and 2 in the year 2020, and the resiliency of the Town Creek population is expected to remain low under all three scenarios in the year 2020. By the year 2030, we expect the Short Creek population to become extirpated under Scenario 1 and under Scenario 3. By 2030, we expect the resiliency of the Town Creek population to remain low under Scenarios 1 and 2 and to be reduced to very low condition under Scenario 3. By the year 2040, we expect the Short Creek population to become extirpated under all three scenarios, and the Town Creek population to become extirpated under Scenario 3, remain in low resiliency under Scenario 2, and reduced to very low resiliency under Scenario 1.

We evaluated future representation by assessing the habitat variability and morphological variation of the slenderclaw crayfish. With the expected extirpation of the Short Creek population under all of the above scenarios by 2040, we expect habitat variability to be lost to the slenderclaw crayfish. The Short Creek population occurs in the large boulder, wider stream habitat type, and, therefore, this population is adapted to this habitat type, which is expected to be lost, as well as the morphological variation of the species encountered in the Short Creek population. Thus, representation will be further reduced.

We anticipate a reduction in the occupied range of the species (redundancy) through the loss of the Short Creek population, and, at a minimum, the species' range within the Town Creek population will be highly restricted to the headwaters due to the expansion of virile crayfish. Therefore, the slenderclaw crayfish is expected to have very limited redundancy in the future. The recolonization of sites (or one of the populations) following a catastrophic event would be very difficult given the loss of additional sites (and one or both populations) and reduced habitat available to the remaining population.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the slenderclaw crayfish. The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species that ''is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.''

We considered whether the slenderclaw crayfish is presently in danger of extinction and determined that proposing endangered status is not appropriate. Our review of the best available information indicates that there are currently two populations of slenderclaw crayfish occurring across the species' historical range in Alabama. Although there is some evidence of reduced abundance and presumed extirpation at four historical sites, the species has also been identified at three new sites as reflected by recent increased survey efforts. In addition, the best available information does not suggest that this species occurred in much greater numbers than it does today. While there are potentially several sources of indirect water quality impacts, no direct water quality-related impacts to the slenderclaw crayfish are known at this time, and crayfish generally have a higher tolerance to poor water quality conditions compared to other aquatic species such as mussels. However, water quality was identified as a potential factor that may indirectly affect the viability of the slenderclaw crayfish. Currently, the primary threat to the slenderclaw crayfish is the nonnative virile crayfish, which is expanding into the slenderclaw crayfish's range. At present, the virile crayfish has been reported as occurring at only one site, the type locality, where the slenderclaw crayfish was known to occur. The slenderclaw crayfish no longer occurs at this site, but we do not know whether the virile crayfish is the cause. At this time, the virile crayfish occupies a few sites approximately 7 mi (11 km) downstream of current slenderclaw crayfish sites in one (Short Creek) of the two watersheds. There are currently no records of the virile crayfish in the Town Creek population. Therefore, we expect the slenderclaw crayfish to continue to persist in this watershed, as long as the virile crayfish does not expand its range. In addition, given that the species occurs in two different watersheds, a single catastrophic event (*e.g.,* a chemical spill) is not likely to impact both populations at the same time. Therefore, we determine that the slenderclaw crayfish is not currently in danger of extinction throughout all of its range.

However, we expect that resiliency, redundancy, and representation for the slenderclaw crayfish will be reduced from its current condition. The nonnative virile crayfish is the primary threat to the slenderclaw crayfish in the foreseeable future. The term foreseeable future extends only so far as the Services can reasonably rely on predictions about the future in making determinations about the future conservation status of the species. Those predictions can be in the form of extrapolation of population or threat trends, analysis of how threats will affect the status of the species, or assessment of future events that will have a significant new impact on the species. The foreseeable future described here, uses the best available data and takes into account considerations such as the species' life history characteristics, threat projection timeframes, and environmental variability, which may affect the reliability of projections. We also considered the time frames applicable to the relevant threats and to the species' likely responses to those threats in view of its life history characteristics. The foreseeable future for a particular status determination extends only so far as predictions about the future are reliable.

In cases where the available data allow for projections, the time horizon for such analyses does not necessarily dictate what constitutes the ''foreseeable future'' or set the specific threshold for determining when a species may be in danger of extinction. Rather, the foreseeable future can only extend as far as the Service can reasonably explain reliance on the available data to formulate a reliable prediction and avoid reliance on assumption, speculation, or preconception. Regardless of the type of data available underlying the Service's analysis, the key to any analysis is a clear articulation of the facts, the rationale, and conclusions regarding foreseeability.

We determined the foreseeable future for the slenderclaw crayfish to be 10 to 20 years from present. The SSA's future scenarios modeled and projected both precipitation and land-use change, and the threat and rate of the virile crayfish's expansion, out to 2040, and we

determined that we can rely on the range of 10 to 20 years as presented in the scenarios and predict how those threats will affect the slenderclaw crayfish within that time range. Given the projected rate of virile crayfish spread of 1,640 ft per month (500 m per month) (Wong 2014, p. 4) and documented behavior and current locations of the virile crayfish, we can reliably predict within the next 10 to 20 years that the virile crayfish will expand further into the slenderclaw crayfish's range and likely outcompete the slenderclaw crayfish. In addition, 10 to 20 years represents 10 to 20 generations, which would allow population-level impacts from threats to be detected.

There is uncertainty regarding the rate at which virile crayfish may extend into the range of the slenderclaw crayfish and the effects on slenderclaw crayfish populations should the virile crayfish become established. We acknowledge this uncertainty, and we are specifically seeking additional information from the public to better inform our final determination (see Information Requested, above). However, based on the documented past expansion of the virile crayfish, future invasion and expansion into the slenderclaw crayfish's range is expected to occur within the foreseeable future. As discussed above and based on the scenarios, we expect the Short Creek population to be extirpated and the Town Creek population to have lower resiliency or become extirpated within the foreseeable future. We expect the remaining population of the slenderclaw crayfish to become more vulnerable to extirpation, as evidenced by concurrent losses in representation and redundancy. Primarily due to this nonnative species invasion reducing or extirpating most, if not all, of the sites and both populations, we expect the species to be in danger of extinction in the foreseeable future. Accordingly, we find that the slenderclaw crayfish is likely to become in danger of extinction within the foreseeable future throughout its range.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the slenderclaw crayfish is likely to become an endangered species within the foreseeable future throughout its range, we find it unnecessary to proceed to an evaluation of potentially significant portions of the range. Where the best available information allows the Services to determine a status for the species rangewide, that determination should be given conclusive weight because a rangewide determination of status more accurately reflects the species' degree of imperilment and better promotes the purposes of the statute. Under this reading, we should first consider whether listing is appropriate based on a rangewide analysis and proceed to conduct a ''significant portion of its range'' analysis if, and only if, a species does not qualify for listing as either endangered or threatened according to the ''all'' language. We note that the court in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), did not address this issue, and our conclusion is therefore consistent with the opinion in that case.

Therefore, on the basis of the best available scientific and commercial information, we propose to list the slenderclaw crayfish as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems. Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification (such as ''downlisting'' from endangered to threatened) or removal from the Federal Lists of Endangered and Threatened Wildlife and Plants (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*), or from our Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If we list the slenderclaw crayfish, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Alabama would be eligible for Federal funds to implement management actions that promote the protection or recovery of the slenderclaw crayfish. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although the slenderclaw crayfish is only proposed for listing under the Act at this time, please let us know if you

are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

II. Proposed Rule Issued Under Section 4(d) of the Act

Background

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Secretary also has the discretion to prohibit, by regulation with respect to any threatened species of fish or wildlife, any act prohibited under section 9(a)(1) of the Act. The same prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally.

In accordance with section 4(d) of the Act, the regulations implementing the Act include a provision that generally applies to threatened wildlife the same prohibitions that apply to endangered wildlife (50 CFR 17.31(a)). However, for any threatened species, the Service may instead develop a protective regulation that is specific to the conservation needs of that species. Such a regulation would contain all of the protections applicable to that species (50 CFR 17.31(c)); this may include some of the general prohibitions and exceptions under 50 CFR 17.31 and 17.32, but would also include species-specific protections that may be more or less restrictive than the general provisions at 50 CFR 17.31.

For the slenderclaw crayfish, the Service has developed a proposed 4(d) rule that is tailored to the specific threats and conservation needs of this species. The proposed 4(d) rule will not remove or alter in any way the consultation requirements under section 7 of the Act.

Proposed 4(d) Rule for Slenderclaw Crayfish

Under this proposed 4(d) rule, the following prohibitions apply to the slenderclaw crayfish except as otherwise noted:

Take

Protecting the slenderclaw crayfish from direct forms of take, such as physical injury or killing, whether incidental or intentional, will help preserve and recover the remaining populations of the species. Therefore, we propose to prohibit intentional take of slenderclaw crayfish, including, but not limited to, capturing, handling, trapping, collecting, or other activities. In addition, we propose to prohibit the import, export, possession, sale, offer for sale, delivery, carry, transport, or shipment, by any means whatsoever, any slenderclaw crayfish.

Protecting the slenderclaw crayfish from indirect forms of take, such as harm that results from habitat degradation, will likewise help preserve the species' populations and also decrease negative effects from other stressors impeding recovery of the species. We determined that the primary threat to the slenderclaw crayfish is the nonnative virile crayfish, which is expanding farther into the slenderclaw crayfish's range. Therefore, any intentional or incidental introduction of nonnative species, such as the virile crayfish, that compete with, prey upon, or destroy the habitat of the slenderclaw crayfish would further impact the species and its habitat. Also, destruction or alteration of the species' habitat by discharge of fill material, draining, ditching, tiling, pond construction, stream channelization or diversion, or diversion or alteration of surface or ground water flow into or out of the stream, will impact the habitat for the slenderclaw crayfish, and therefore potentially harm the slenderclaw crayfish. In addition, a further reduction in streamwater availability due to hydrological alteration from modification of water flow of any stream in which the slenderclaw crayfish is known to occur could harm the crayfish as it resides in flowing streams, not impounded waters. Finally, water quality impacts have been documented to occur in both watersheds in which the slenderclaw crayfish occurs, and any discharge of chemicals or fill material into these watersheds will further impact the habitat of the slenderclaw crayfish. Therefore, we propose to prohibit actions that result in the incidental take of slenderclaw crayfish by altering or degrading the habitat.

Exceptions From Prohibitions

The proposed 4(d) rule includes the following exceptions from the above-stated prohibitions:

Permitted Activities

We may issue permits to carry out otherwise prohibited activities, including those described above, involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: Scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

Activities Not Requiring a Permit

We may allow take of the slenderclaw crayfish without a permit by any employee or agent of the Service or a State conservation agency designated by his agency for such purposes and when acting in the course of his official duties if such action is necessary to aid a sick, injured or orphaned specimen; dispose of a dead specimen; or salvage a dead specimen which may be useful for scientific study. In addition, Federal and State law enforcement officers may possess, deliver, carry, transport, or ship slenderclaw crayfish taken in violation of the Act as necessary.

Streambank Stabilization

Streambank stabilization is used as a habitat restoration technique to restore degraded and eroded streambanks back to vegetated, stable streambanks. When done correctly, these projects reduce bank erosion and instream sedimentation, resulting in improved habitat conditions for aquatic species. However, given the slenderclaw crayfish's current low abundance, any take from streambank stabilization projects using equipment instream would be harmful to the species. Therefore, we would allow streambanks to be stabilized using the following bioengineering methods: Live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), live fascines (live branch cuttings, usually willows, bound together into

long, cigar shaped bundles), or brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill). These methods would not include the sole use of quarried rock (rip-rap) or the use of rock baskets or gabion structures, but could be used in conjunction with the above bioengineering methods. In addition, to reduce streambank erosion and sedimentation into the stream, we would require that work using these bioengineering methods would be performed at base-flow or low water conditions and when significant rainfall is not predicted. Further, streambank stabilization projects must keep all equipment out of the stream channels and water.

This provision of the proposed 4(d) rule for streambank stabilization would promote conservation of the slenderclaw crayfish by excepting from prohibitions activities that would improve habitat conditions by reducing bank erosion and instream sedimentation.

Finding

The terms ''conserve'', ''conserving'', and ''conservation'' as defined by the Act, mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Due to threats acting on the slenderclaw crayfish and the projected impacts to the species and its habitat in the foreseeable future, its viability is expected to decline. The encroachment of the virile crayfish along with reduced water quality leave the species vulnerable to becoming in danger of extinction within the foreseeable future. The species has historically continued to persist in two populations despite its narrow endemic nature; however, the viability is expected to decline due to the virile crayfish and the conditions of the habitat. Prohibiting intentional take as described above as well as incidental take by altering or degrading the habitat will be beneficial in order to protect the slenderclaw crayfish from activities that negatively affect the species and further exacerbate population declines.

For the reasons discussed above, we find that this rule under section 4(d) of the Act is necessary and advisable to provide for the conservation of the slenderclaw crayfish. We do, however, seek public comment on whether there are additional activities that should be considered under the 4(d) provision for the slenderclaw crayfish (see Information Requested, above). This proposal will not be made final until we have reviewed comments from the public and peer reviewers.

III. Proposed Critical Habitat Designation

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the specific features that support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. We will determine whether unoccupied areas are essential for the conservation of the species by considering the life-history, status, and conservation needs of the species. This will be further informed by any generalized conservation strategy, criteria, or outline that may have been

developed for the species to provide a substantive foundation for identifying which features and specific areas are essential to the conservation of the species and, as a result, the development of the critical habitat designation. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species to the maximum extent prudent and determinable. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species. In determining whether a designation would not be beneficial, the factors the Service may consider include, but are not limited to, whether the present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or whether any areas meet the definition of ''critical habitat.''

There is currently no imminent threat of take attributed to collection or vandalism identified under Factor B for this species, and identification and mapping of critical habitat is not expected to initiate any such threat. In the absence of finding that the designation of critical habitat would increase threats to a species, we next determine whether such designation of critical habitat would not be beneficial to the species. In the information provided above on threats to the species, we determined that there are habitat-based threats to the slenderclaw crayfish identified under Factor A; therefore, we cannot say that the designation of critical habitat would not be beneficial to the species. Rather, we determine that critical habitat would be beneficial to the species through the application of section 7 of the Act to actions that affect habitat as well as those that affect the species.

Because we have determined that the designation of critical habitat will not likely increase the degree of threat to the species and would be beneficial, we find that designation of critical habitat is prudent for the slenderclaw crayfish.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the slenderclaw crayfish is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where the species is located. We find that this information is sufficient for us to conduct both the biological and economic analyses required for the critical habitat determination. Therefore, we conclude that the designation of critical habitat is determinable for the slenderclaw crayfish.

Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic needed to support the life history of the species. In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species.

We derive the specific physical or biological features essential for slenderclaw crayfish from studies of this species' and similar crayfish species' habitat, ecology, and life history. The primary habitat elements that influence resiliency of the slenderclaw crayfish include water quantity, water quality, substrate, interstitial space, and habitat connectivity. More detail of the habitat and resource needs are summarized above under *Habitat.* We use the ADEM water quality standards for fish and wildlife criteria to determine the minimum standards of water quality necessary for the slenderclaw crayfish. A full description of the needs of individuals, populations, and the species is available from the SSA report; the resource needs of individuals are summarized below in Table 1.

TABLE 1—RESOURCE NEEDS FOR SLENDERCLAW CRAYFISH TO COMPLETE EACH LIFE STAGE

Life stage	Resources needed
Fertilized Eggs	• Female to carry eggs. • Water to oxygenate eggs. • Female to fan eggs to prevent sediment buildup and oxygenate water as needed. • Female to shelter in boulder/cobble substrate and available interstitial space.
Juveniles	• Female to carry juveniles in early stage. • Water. • Food (likely aquatic macroinvertebrates). • Boulder/cobble substrate and available interstitial space for shelter.
Adults	• Water. • Food (likely omnivorous, opportunistic, and generalist feeders). • Boulder/cobble substrate and available interstitial space for shelter.

Summary of Essential Physical or Biological Features

In summary, we derive the specific physical or biological features essential to the conservation of the slenderclaw crayfish from studies of this species' and similar crayfish species' habitat, ecology, and life history, as described above. Additional information can be found in the SSA report (Service 2018, entire) available on *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069. We have determined that the following physical or biological features are essential to the conservation of the slenderclaw crayfish:

(1) Geomorphically stable, small to medium, flowing streams:

(a) That are typically 19.8 feet (ft) (6 meters (m)) wide or smaller;

(b) With attributes ranging from:

(i) Streams with predominantly large boulders and fractured bedrock, with widths from 16.4 to 19.7 ft (5 to 6 m), low to no turbidity, and depths up to 2.3 ft (0.7 m), to

(ii) Streams dominated by small substrate types with a mix of cobble, gravel, and sand, with widths of approximately 9.8 feet (3 m), low to no turbidity, and depths up to 0.5 feet (0.15 m);

(c) With substrate consisting of boulder and cobble containing abundant interstitial spaces for sheltering and breeding; and

(d) With intact riparian cover to maintain stream morphology and to reduce erosion and sediment inputs.

(2) Seasonal water flows, or a hydrologic flow regime (which includes the severity, frequency, duration, and seasonality of discharge over time), necessary to maintain benthic habitats where the species is found and to maintain connectivity of streams with the floodplain, allowing the exchange of nutrients and sediment for maintenance of the crayfish's habitat and food availability.

(3) Appropriate water and sediment quality (including, but not limited to, conductivity; hardness; turbidity; temperature; pH; and minimal levels of ammonia, heavy metals, pesticides, animal waste products, and nitrogen, phosphorus, and potassium fertilizers) necessary to sustain natural physiological processes for normal behavior, growth, and viability of all life stages.

(4) Prey base of aquatic macroinvertebrates and detritus. Prey items may include, but are not limited to, insect larvae, snails and their eggs, fish and their eggs, and plant and animal detritus.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of the slenderclaw crayfish may require special management considerations or protections to reduce the following threats: (1) Impacts from invasive species, including the nonnative virile crayfish; (2) nutrient pollution from agricultural activities that impact water quantity and quality; (3) significant alteration of water quality and water quantity, including conversion of streams to impounded areas; (4) culvert and pipe installation that creates barriers to movement; and (5) other watershed and floodplain disturbances that release sediments or nutrients into the water.

Management activities that could ameliorate these threats include, but are not limited to: Control and removal of introduced invasive species; limiting the spreading of poultry litter to time periods of dry, stable weather conditions; use of best management practices designed to reduce sedimentation, erosion, and bank side destruction; protection of riparian corridors and retention of sufficient canopy cover along banks; moderation of surface and ground water withdrawals to maintain natural flow regimes; and reduction of other watershed and floodplain disturbances

that release sediments, pollutants, or nutrients into the water.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat.

The current distribution of the slenderclaw crayfish is much reduced from its historical distribution in one (Short Creek watershed) of the two populations. The currently occupied sites in the Short Creek watershed occur in a single tributary (Shoal Creek), and one catastrophic event could impact this entire population. In addition, the nonnative virile crayfish occupies sites within the Short Creek watershed, including the type locality for the slenderclaw crayfish in Short Creek in which the slenderclaw crayfish no longer occurs. We anticipate that recovery will require continued protection of existing populations and habitat, as well as establishing sites in additional streams that more closely approximate its historical distribution in order to ensure there are adequate numbers of crayfish in stable populations and that these populations have multiple sites occurring in at least two streams within each watershed. This will help ensure that catastrophic events, such as a chemical spill, cannot simultaneously affect all known populations.

Sources of data for this proposed critical habitat designation include numerous survey reports on streams throughout the species' range and databases maintained by crayfish experts and universities (Bouchard and Hobbs 1976, entire; Bearden 2017, unpublished data; Schuster 2017, unpublished data; Taylor 2017, unpublished data; Service 2018, entire). We have also reviewed available information that pertains to the habitat requirements of this species. Sources of information on habitat requirements include surveys conducted at occupied sites and published in agency reports, and data collected during monitoring efforts.

Areas Occupied at the Time of Listing

For locations within the geographic area occupied by the species at the time of listing, we identified stream channels that currently support populations of the slenderclaw crayfish. We defined ''current'' as stream channels with observations of the species from 2009 to the present. Due to the recent breadth and intensity of survey efforts for the slenderclaw crayfish throughout the historical range of the species, it is reasonable to assume that streams with no positive surveys since 2009 should not be considered occupied for the purpose of our analysis. Within these areas, we delineated critical habitat unit boundaries using the following process:

We evaluated habitat suitability of stream channels within the geographical area occupied at the time of listing, and retained for further consideration those streams that contain one or more of the physical and biological features to support life-history functions essential to conservation of the species. We refined the starting and ending points of units by evaluating the presence or absence of appropriate physical and biological features. We selected the headwaters as upstream cutoff points for each stream and downstream cutoff points that omit areas that are not suitable habitat. For example, the Guntersville Lake Tennessee Valley Authority project boundary was selected as an endpoint for one unit, as there was a change to unsuitable parameters (*e.g.,* impounded waters).

Based on this analysis, the following streams meet criteria for areas occupied by the species at the time of listing: Bengis Creek, Scarham Creek, Shoal Creek, Short Creek, Town Creek, and Whippoorwill Creek (see *Unit Descriptions,* below). The proposed critical habitat designation does not include all stream segments known to have been occupied by the species historically; rather, it includes only the occupied stream segments within the historical range that have also retained one or more of the physical or biological features that will allow for the maintenance and expansion of existing populations.

Areas Outside the Geographical Area Occupied at the Time of Listing

To consider for designation areas not occupied by the species at the time of listing, we must demonstrate that these areas are essential for the conservation of the species. To determine if these areas are essential for the conservation of the slenderclaw crayfish, we considered the life history, status, and conservation needs of the species such as: (1) The importance of the stream to the overall status of the species, the importance of the stream to the prevention of extinction, and the stream's contribution to future recovery of the slenderclaw crayfish; (2) whether the area could be maintained or restored to contain the necessary habitat to support the slenderclaw crayfish; (3) whether the site provides connectivity between occupied sites for genetic exchange; (4) whether a population of the species could be reestablished in the location; and (5) whether the virile crayfish is currently present in the stream.

For areas outside the geographical area occupied by the species at the time of listing, we delineated critical habitat unit boundaries by evaluating stream segments not known to have been occupied at listing (*i.e.,* outside of the geographical area occupied by the species) but that are within the historical range of the species to determine if they are essential for the survival and recovery of the species. Essential areas are those that:

(a) Expand the geographical distribution within areas not occupied at the time of listing across the historical range of the species; and

(b) Are connected to other occupied areas, which will enhance genetic exchange between populations.

General Information on the Maps of the Proposed Critical Habitat Designation

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for slenderclaw crayfish. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation under the Act with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of

this document under Proposed Regulation Promulgation. We include more detailed information on the boundaries of the proposed critical habitat designation in the discussion of individual units below. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

Proposed Critical Habitat Designation

We are proposing to designate approximately 78 river miles (mi) (126 river kilometers (km)) in two units as critical habitat for the slenderclaw crayfish. These proposed critical habitat areas, described below, constitute our current best assessment of areas that meet the definition of critical habitat for the slenderclaw crayfish. The two units proposed as critical habitat are: (1) Town Creek Unit, and (2) Short Creek Unit. Unit 2 is subdivided into two subunits: (2a) Shoal Creek and Short Creek subunit, and (2b) Scarham-Laurel Creek subunit. Table 2 shows the name, occupancy of the unit, land ownership of the riparian areas surrounding the units, and approximate river miles of the proposed designated units for the slenderclaw crayfish.

TABLE 2—PROPOSED CRITICAL HABITAT UNITS FOR THE SLENDERCLAW CRAYFISH

Stream(s)	Occupied at the time of listing	Ownership	Length of unit in river miles (kilometers)
Unit 1—Town Creek			
Bengis and Town creeks	Yes	Private	42 (67)
Unit 2—Short Creek			
Subunit 2a—Shoal Creek and Short Creek			
Scarham, Shoal, Short, and Whippoorwill creeks	Yes	Private	10 (17)
Subunit 2b—Scarham-Laurel Creek			
Scarham-Laurel Creek	No	Private	26 (42)
Total			78 (126)

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all proposed units, and reasons why they meet the definition of critical habitat for the slenderclaw crayfish, below.

Unit 1: Town Creek

Unit 1 consists of 41.8 river mi (67.2 river km) of Bengis and Town creeks in DeKalb County, Alabama. Unit 1 includes stream habitat up to bank full height, consisting of the headwaters of Bengis Creek to its confluence with Town Creek and upstream to the headwaters of Town Creek. Stream channels in and lands adjacent to Unit 1 are privately owned except for bridge crossings and road easements, which are owned by the State and County. The slenderclaw crayfish occupies all stream reaches in this unit, and the unit currently supports all breeding, feeding, and sheltering needs essential to the conservation of the slenderclaw crayfish.

Special management considerations or protection may be required for control and removal of introduced invasive species, including the nonnative virile crayfish, which occupies the boulder and cobble habitats and interstitial spaces within these habitats that the slenderclaw crayfish needs. At present, the virile crayfish is not present in this unit, although it has been documented just outside the watershed boundary. However, based on future projections in the SSA report, the virile crayfish is expected to be present in the Town Creek watershed within the next 2 years.

In addition, special management considerations or protection may be required to address water withdrawals and drought as well as excess nutrients, sediment, and pollutants that enter the streams and serve as indicators of other forms of pollution, such as bacteria and toxins. A primary source of these types of pollution is agricultural runoff. However, during recent survey efforts for the slenderclaw crayfish, water quality analysis found lead measurements in Bengis Creek that exceeded the acute and chronic aquatic life criteria set by U.S. Environmental Protection Agency and ADEM, and elevated ammonia concentrations in Town Creek. Special management or protection may include moderating surface and ground water withdrawals, using best management practices to reduce sedimentation, and reducing watershed and floodplain disturbances that release pollutants and nutrients into the water.

Unit 2: Short Creek

Subunit 2a—Shoal Creek and Short Creek: Subunit 2a consists of 10.3 river mi (16.6 river km) of Scarham, Shoal, Short, and Whippoorwill creeks in DeKalb and Marshall Counties, Alabama. Subunit 2a includes stream habitat up to bank full height, consisting of the headwaters of Shoal Creek to its confluence with Whippoorwill Creek, Whippoorwill Creek to its confluence with Scarham Creek, Scarham Creek to its confluence with Short Creek, and Short Creek downstream to the Guntersville Lake Tennessee Valley Authority project boundary. Stream channels in and lands adjacent to subunit 2a are privately owned except for bridge crossings and road easements, which are owned by the State and Counties. The slenderclaw crayfish occupies all stream reaches in this unit, and the unit currently supports all breeding, feeding, and sheltering needs essential to the conservation of the slenderclaw crayfish.

Special management considerations or protection may be required for control and removal of introduced invasive species, including the virile crayfish (see Unit 1 discussion, above). At present, the virile crayfish is present at sites in Short Creek and Drum Creek

within the Short Creek watershed and just outside of the unit boundary in Guntersville Lake. Based on future projections in the SSA report, the virile crayfish is expected to be present in more tributaries within the Short Creek watershed within the next 2 to 5 years.

In addition, special management considerations or protection may be required to address water withdrawals and drought as well as excess nutrients, sediment, and pollutants that enter the streams and serve as indicators of other forms of pollution such as bacteria and toxins. A primary source of these types of pollution is agricultural runoff. During recent survey efforts for the slenderclaw crayfish, water quality analysis indicated that impaired water quality due to nutrients, bacteria, and levels of atrazine may be of concern in the Short Creek watershed. Special management or protection may include moderating surface and ground water withdrawals, using best management practices to reduce sedimentation, and reducing watershed and floodplain disturbances that release pollutants and nutrients into the water.

Subunit 2b—Scarham-Laurel Creek: Subunit 2b consists of 25.9 river mi (41.7 river km) of Scarham-Laurel Creek in DeKalb and Marshall Counties, Alabama. Subunit 2b includes stream habitat up to bank full height, consisting of the headwaters of Scarham-Laurel Creek to its confluence with Short Creek. Stream channels in and lands adjacent to Subunit 2b are privately owned except for bridge crossings and road easements, which are owned by the State and Counties.

This unoccupied subunit is considered to be essential for the conservation of the species. Scarham-Laurel Creek is within the historical range of the slenderclaw crayfish but is not within the geographical range currently occupied by the species at the time of listing. The slenderclaw crayfish has not been documented at sites in Scarham-Laurel Creek in over 40 years. We presume these sites to be extirpated. Scarham-Laurel Creek is in restorable condition and is currently devoid of the virile crayfish. Water quality concerns have been documented within Scarham-Laurel Creek, with it listed on Alabama's 303(d) list of impaired waters for impacts from pesticides, siltation, ammonia, low dissolved oxygen/organic enrichment, and pathogens from agricultural sources in 1998 (ADEM 1996, p. 1). However, in 2004, Scarham Creek was removed from the 303(d) list after TMDLs were established (ADEM 2002, p. 5). Recent water quality analysis indicated that water quality was impaired within the Short Creek watershed in which Scarham-Laurel Creek is located (Bearden *et al.* 2017, p. 32). However, when the water quality of Scarham-Laurel Creek is restored, the stream could be an area for population expansion within the Short Creek watershed, and thereby provide redundancy needed to support the species' recovery. Therefore, we conclude that this stream is essential for the conservation of the slenderclaw crayfish.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense lands with a completed INRMP within the proposed critical habitat designation.

Exclusions

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

As discussed below, we are not proposing to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate whether a specific critical habitat designation may restrict or modify such land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socioeconomic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary 4(b)(2) exclusion analysis.

For this proposed designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed

designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the slenderclaw crayfish (IEc 2018, entire). The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that would be subject to such protections and are, therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. This screening analysis, combined with the information contained in our IEM, constitutes our draft economic analysis of the proposed critical habitat designation for the slenderclaw crayfish, and is summarized in the narrative below.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the proposed critical habitat designation. In our June 6, 2018, IEM, we first identified probable incremental economic impacts associated with each of the following categories of activities: (1) Agriculture and poultry farming; (2) development; (3) recreation; (4) restoration activities; (5) flood control; and (6) transportation and utilities. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. If we list the species, as proposed in this document, in areas where the slenderclaw crayfish is present, under section 7 of the Act, Federal agencies would be required to consult with the Service on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the consultation process.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for the slenderclaw crayfish's critical habitat. Because the designation of critical habitat is being proposed concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which would result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the slenderclaw crayfish would also likely adversely affect the essential physical or biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the slenderclaw crayfish totals approximately 78 river mi (126 river km), which includes both occupied and unoccupied streams. Within the occupied streams, any actions that may affect the species would likely also affect proposed critical habitat, and it is unlikely that any additional conservation efforts would be required to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the species. Within the unoccupied streams, the Service will consult with Federal agencies on any projects that occur within the watershed boundaries containing unoccupied critical habitat due to overlap with the ranges of other listed species such as Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), harperella (*Ptilimnium nodosum*), and green pitcher-plant (*Sarracenia oreophila*) in these areas. In addition, all of the watershed boundaries containing unoccupied habitat are within the range of the slenderclaw crayfish. Therefore, any section 7 consultation would consider effects to the slenderclaw crayfish, even in the absence of designated critical habitat. Thus, no incremental project modifications resulting solely from the presence of unoccupied critical habitat are anticipated. Therefore, the only additional costs that are expected in all of the proposed critical habitat designation are administrative costs, due to the fact that this additional analysis will require time and resources by both the Federal action agency and the Service. We anticipate a maximum of three informal section 7 consultations and five technical assistance efforts annually at a total incremental cost of less than $10,000 per year.

As we stated earlier, we are soliciting data and comments from the public on the draft economic analysis, as well as all aspects of this proposed rule and our required determinations. See **ADDRESSES**, above, for information on where to send comments. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period.

Exclusions Based on Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. As discussed above, we prepared an analysis of the probable economic impacts of the proposed critical habitat designation and related factors. The Secretary does not propose to exercise his discretion to exclude any areas from the final designation based on economic impacts.

Exclusions Based on National Security Impacts or Homeland Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense or Department of Homeland Security where a national security impact might exist. In preparing this

proposal, we have determined that no lands within the proposed designation of critical habitat for slenderclaw crayfish are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security. Consequently, the Secretary is not intending to exercise his discretion to exclude any areas from the final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors including whether there are permitted conservation plans covering the species in the area, such as habitat conservation plans, safe harbor agreements, or candidate conservation agreements with assurances, or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this proposal, we have determined that there are currently no habitat conservation plans or other management plans for the slenderclaw crayfish, and the proposed critical habitat does not include any tribal lands or trust resources. We anticipate no impact on tribal lands, partnerships, or habitat conservation plans from this proposed critical habitat designation. Accordingly, the Secretary does not intend to exercise his discretion to exclude any areas from the final designation based on other relevant impacts.

During the development of a final designation, we will consider any additional information we receive during the public comment period, including, but not limited to, economic impact information, which may result in areas being excluded from the final critical habitat designation under section 4(b)(2) of the Act and our implementing regulations at 50 CFR 424.19.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final regulation with a new definition of destruction or adverse modification on February 11, 2016 (81 FR 7214). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit or that involve some other Federal action. Federal agency actions within the species' habitat that may require conference or consultation or both include management and any other landscape-altering activities on private lands seeking funding by Federal agencies, which may include, but are not limited to, the U.S. Department of Agriculture (USDA) Farm Service Agency, USDA Natural Resources Conservation Service, and Federal Emergency Disaster Service; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have newly listed a species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that result in a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of the slenderclaw crayfish. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of the species or that preclude or significantly delay development of such features. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the slenderclaw crayfish These activities include, but are not limited to:

(1) Actions that would alter the minimum flow or the existing flow regime. Such activities could include, but are not limited to, impoundment, channelization, water diversion, and water withdrawal. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of the slenderclaw crayfish by decreasing or altering seasonal flows to levels that would adversely affect the species' ability to complete its life cycle.

(2) Actions that would significantly alter water chemistry or quality. Such activities could include, but are not limited to, release of chemicals (including pharmaceuticals, metals, and salts) or biological pollutants into the surface water or connected groundwater at a point source or by dispersed release (non-point source). These activities could alter water conditions to levels that are beyond the tolerances of the slenderclaw crayfish and result in direct or cumulative adverse effects to these individuals and their life cycles.

(3) Actions that would significantly increase sediment deposition within the stream channel. Such activities could include, but are not limited to, excessive sedimentation from livestock grazing, road construction, channel alteration, timber harvest, off-road vehicle use, and other watershed and floodplain disturbances. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of the slenderclaw crayfish by increasing the sediment deposition to levels that would adversely affect the species' ability to complete its life cycle.

(4) Actions that would significantly increase eutrophic conditions. Such activities could include, but are not limited to, release of nutrients into the surface water or connected groundwater at a point source or by dispersed release (non-point source). These activities can result in excessive nutrients and algae filling streams and reducing habitat for the slenderclaw crayfish, degrading water quality from excessive nutrients and during algae decay, and decreasing oxygen levels to levels below the tolerances of the slenderclaw crayfish.

(5) Actions that would significantly alter channel morphology or geometry, or decrease connectivity. Such activities could include, but are not limited to, channelization, impoundment, road and bridge construction, mining, dredging, and destruction of riparian vegetation. These activities may lead to changes in water flows and levels that would degrade or eliminate the slenderclaw crayfish and its habitats. These actions can also lead to increased sedimentation and degradation in water quality to levels that are beyond the tolerances of the slenderclaw crayfish.

(6) Actions that result in the introduction, spread, or augmentation of nonnative aquatic species in occupied stream segments, or in stream segments that are hydrologically connected to occupied stream segments, or introduction of other species that compete with or prey on the slenderclaw crayfish. Possible actions could include, but are not limited to, stocking of nonnative crayfishes and fishes, stocking of sport fish, or other related actions. These activities can introduce parasites or disease; result in direct predation or direct competition; or affect the growth, reproduction, and survival of the slenderclaw crayfish.

IV. Required Determinations

Clarity of the Rule

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

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

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

Executive Order 13771

This rule is not an E.O. 13771 (''Reducing Regulation and Controlling Regulatory Costs'') (82 FR 9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare

and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies would be directly regulated if we adopt the proposed critical habitat designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find that the designation of this proposed critical habitat will significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this proposed rule would significantly or uniquely affect small governments because the lands within and adjacent to the streams being proposed for critical habitat designation are owned by private landowners. These government entities do not fit the definition of ''small governmental jurisdiction.'' Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for slenderclaw crayfish in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes that, if adopted, this designation of critical habitat for slenderclaw crayfish does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, the appropriate State resource agency in Alabama. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the State, or on the relationship between the national government and the State, or on the distribution of powers and responsibilities among the various levels of government. The proposed designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the elements of physical or biological features essential to the conservation of the species. The proposed areas of designated critical habitat are presented on maps, and the proposed rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain any new collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA), need not be prepared in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to NEPA in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We have identified no tribal interests that will be affected by this proposed rulemaking.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *http://www.regulations.gov* and upon request from the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the U.S. Fish and Wildlife Service Species Assessment Team and Alabama Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. Amend § 17.11(h) by adding an entry for ''Crayfish, slenderclaw'' to the List of Endangered and Threatened Wildlife in alphabetical order under CRUSTACEANS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
CRUSTACEANS				
*	*	*	*	*
Crayfish, slenderclaw	*Cambarus cracens*	Wherever found	T	[**Federal Register** citation when published as a final rule] 50 CFR 17.46(b)[4d]; 50 CFR 17.95(h)[CH].
*	*	*	*	*

■ 3. Amend § 17.46 by revising paragraph (b) to read as set forth below:

§ 17.46 Special rules—crustaceans.

* * * * *

(b) Slenderclaw crayfish (*Cambarus cracens*).—(1) *Prohibitions.* The following prohibitions apply to the slenderclaw crayfish:

(i) *Take.* Except as provided under paragraph (b)(2) of this section, it is unlawful to take the slenderclaw crayfish within the United States. Take includes:

(A) Intentional take of slenderclaw crayfish, including capture, handling, or other activities, and

(B) Actions that result in the incidental take of slenderclaw crayfish by altering or degrading the habitat.

(ii) *Possession and other acts with unlawfully taken slenderclaw crayfish.* It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any slenderclaw crayfish that was taken in violation of this section or State laws.

(iii) *Import and export.* It is unlawful to import or to export the slenderclaw crayfish. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(iv) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any slenderclaw crayfish.

(v) *Sale or offer for sale.* (A) It is unlawful to sell or to offer for sale in interstate or foreign commerce any slenderclaw crayfish.

(B) An advertisement for the sale of slenderclaw crayfish that carries a warning to the effect that no sale may be consummated until a permit has been obtained from the Service shall not be considered an offer for sale within the meaning of this section.

(2) *Exceptions from prohibitions.* The following exceptions from prohibitions apply to the slenderclaw crayfish:

(i) All of the provisions of § 17.32 apply to the slenderclaw crayfish.

(ii) Any employee or agent of the Service or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take the slenderclaw crayfish without a permit if such action is necessary to:

(A) Aid a sick, injured or orphaned specimen;

(B) Dispose of a dead specimen; or

(C) Salvage a dead specimen which may be useful for scientific study.

(iii) Any take under paragraph (b)(2)(ii) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Office of Law Enforcement, 5275 Leesburg Pike, Falls Church, VA 22041, within 5 days of the taking. The specimen may only be retained, disposed of, or salvaged under directions from the Office of Law Enforcement.

(iv) Streambank stabilization projects that replace pre-existing bare, eroding streambanks with vegetated, stable streambanks are allowed in accordance with the provisions of this paragraph, thereby reducing current and future bank erosion and instream sedimentation, and improving habitat conditions for the slenderclaw crayfish.

(A) Streambanks may be stabilized using live stakes (live, vegetative cuttings inserted or tamped into the ground in a manner that allows the stake to take root and grow), live fascines (live branch cuttings, usually willows, bound together into long, cigar shaped bundles), or brush layering (cuttings or branches of easily rooted tree species layered between successive lifts of soil fill).

(B) The methods of streambank stabilization described in paragraph (b)(2)(iv)(A) must not include the sole use of quarried rock (rip-rap) or the use of rock baskets or gabion structures; however, rip-rap, rock baskets, or gabion structures may be used in conjunction with the methods of streambank stabilization described in paragraph (b)(2)(iv)(A).

(C) Streambank stabilization projects must be performed at base-flow or low

water conditions and when significant rainfall is not predicted.

(D) Streambank stabilization projects must keep all equipment out of the stream channels and water.

(v) Federal and State law enforcement officers may possess, deliver, carry, transport or ship slenderclaw crayfish taken in violation of the Act as necessary in performing their official duties.

■ 4. Amend § 17.95(h) by adding, in alphabetical order, an entry for ''Slenderclaw Crayfish (*Cambarus cracens*)'' to read as set forth below:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(h) *Crustaceans.*

* * * * *

Slenderclaw Crayfish (Cambarus cracens)

(1) Critical habitat units are depicted for DeKalb and Marshall Counties, Alabama, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the slenderclaw crayfish consist of the following components:

(i) Geomorphically stable, small to medium, flowing streams:

(A) That are typically 19.8 feet (ft) (6 meters (m)) wide or smaller;

(B) With attributes ranging from:

(*1*) Streams with predominantly large boulders and fractured bedrock, with widths from 16.4 to 19.7 ft (5 to 6 m), low to no turbidity, and depths up to 2.3 ft (0.7 m), to

(*2*) Streams dominated by small substrate types with a mix of cobble, gravel, and sand, with widths of approximately 9.8 feet (3 m), low to no turbidity, and depths up to 0.5 feet (0.15 m);

(C) With substrate consisting of boulder and cobble containing abundant interstitial spaces for sheltering and breeding; and

(D) With intact riparian cover to maintain stream morphology and to reduce erosion and sediment inputs.

(ii) Seasonal water flows, or a hydrologic flow regime (which includes the severity, frequency, duration, and seasonality of discharge over time), necessary to maintain benthic habitats where the species is found and to maintain connectivity of streams with the floodplain, allowing the exchange of nutrients and sediment for maintenance of the crayfish's habitat and food availability.

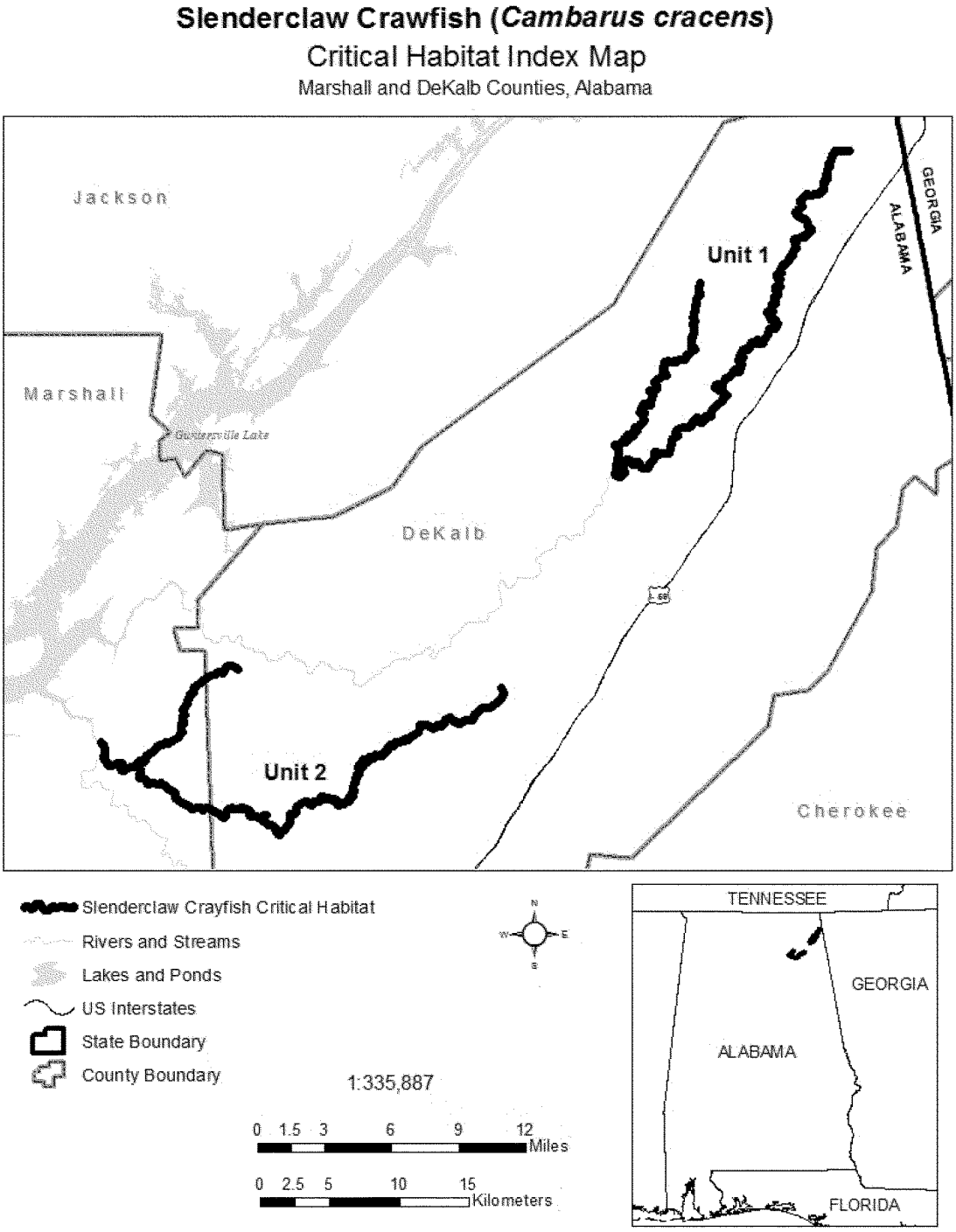
(iii) Appropriate water and sediment quality (including, but not limited to, conductivity; hardness; turbidity; temperature; pH; and minimal levels of ammonia, heavy metals, pesticides, animal waste products, and nitrogen, phosphorus, and potassium fertilizers) necessary to sustain natural physiological processes for normal behavior, growth, and viability of all life stages.

(iv) Prey base of aquatic macroinvertebrates and detritus. Prey items may include, but are not limited to, insect larvae, snails and their eggs, fish and their eggs, and plant and animal detritus.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of this rule.

(4) *Critical habitat map units.* Data layers defining map units were created using Universal Transverse Mercator (UTM) Zone 16N coordinates and species' occurrence data. The hydrologic data used in the maps were extracted from U.S. Geological Survey National Hydrography Dataset High Resolution (1:24,000 scale) using Geographic Coordinate System North American 1983 coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0069 and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map follows:



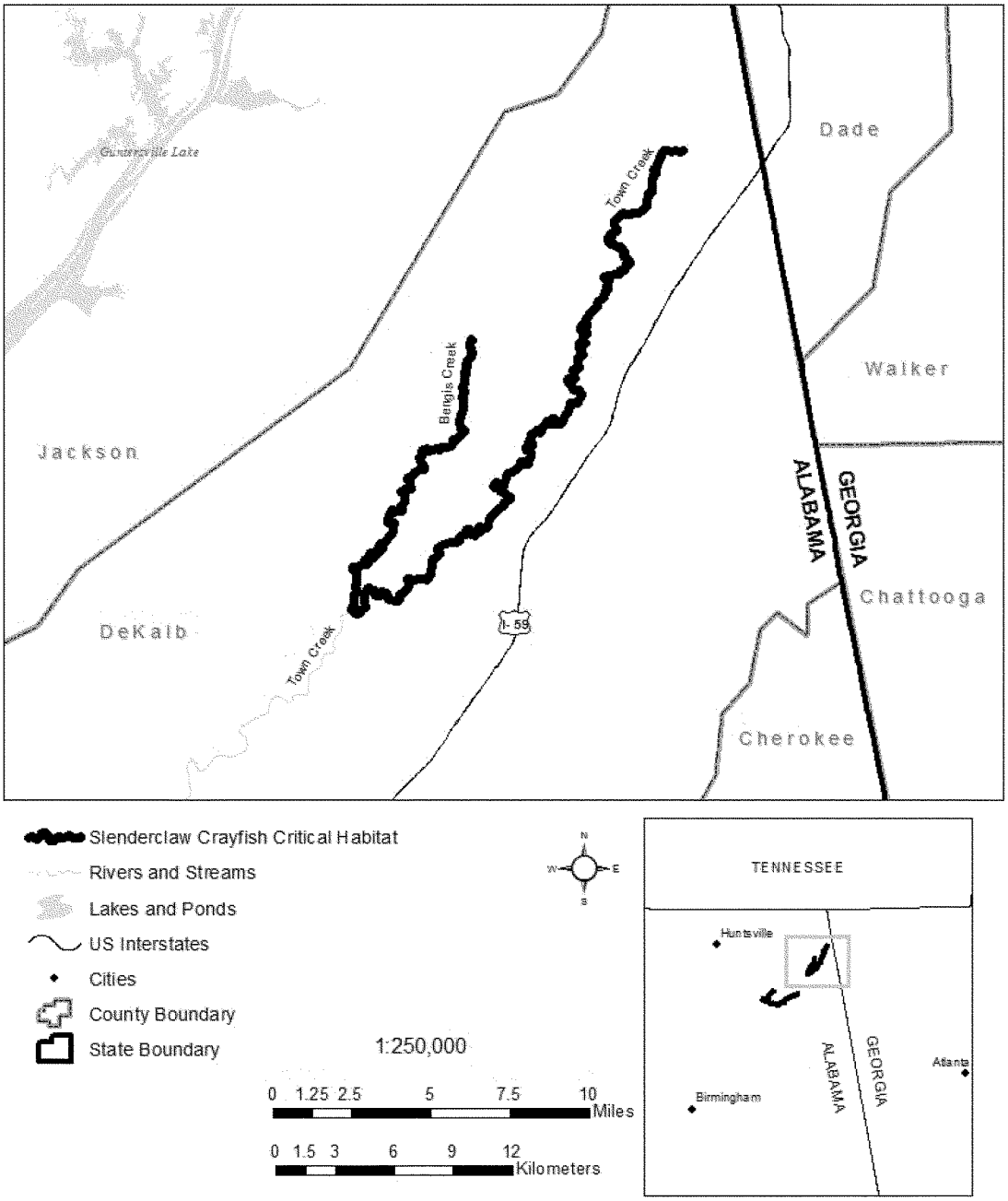
(6) Unit 1: Town Creek, DeKalb County, Alabama.

(i) This unit consists of 41.8 river miles (67.2 river kilometers) of occupied habitat in Bengis and Town creeks. Unit 1 includes stream habitat up to bank full height consisting of the headwaters of Bengis Creek to its confluence with Town Creek and upstream to the headwaters of Town Creek.

(ii) Map of Unit 1 follows:

Unit 1 Town Creek Critical Habitat for Slenderclaw Crayfish (*Cambarus cracens*)

DeKalb County, Alabama



(7) Unit 2: Short Creek, DeKalb and Marshall Counties, Alabama.

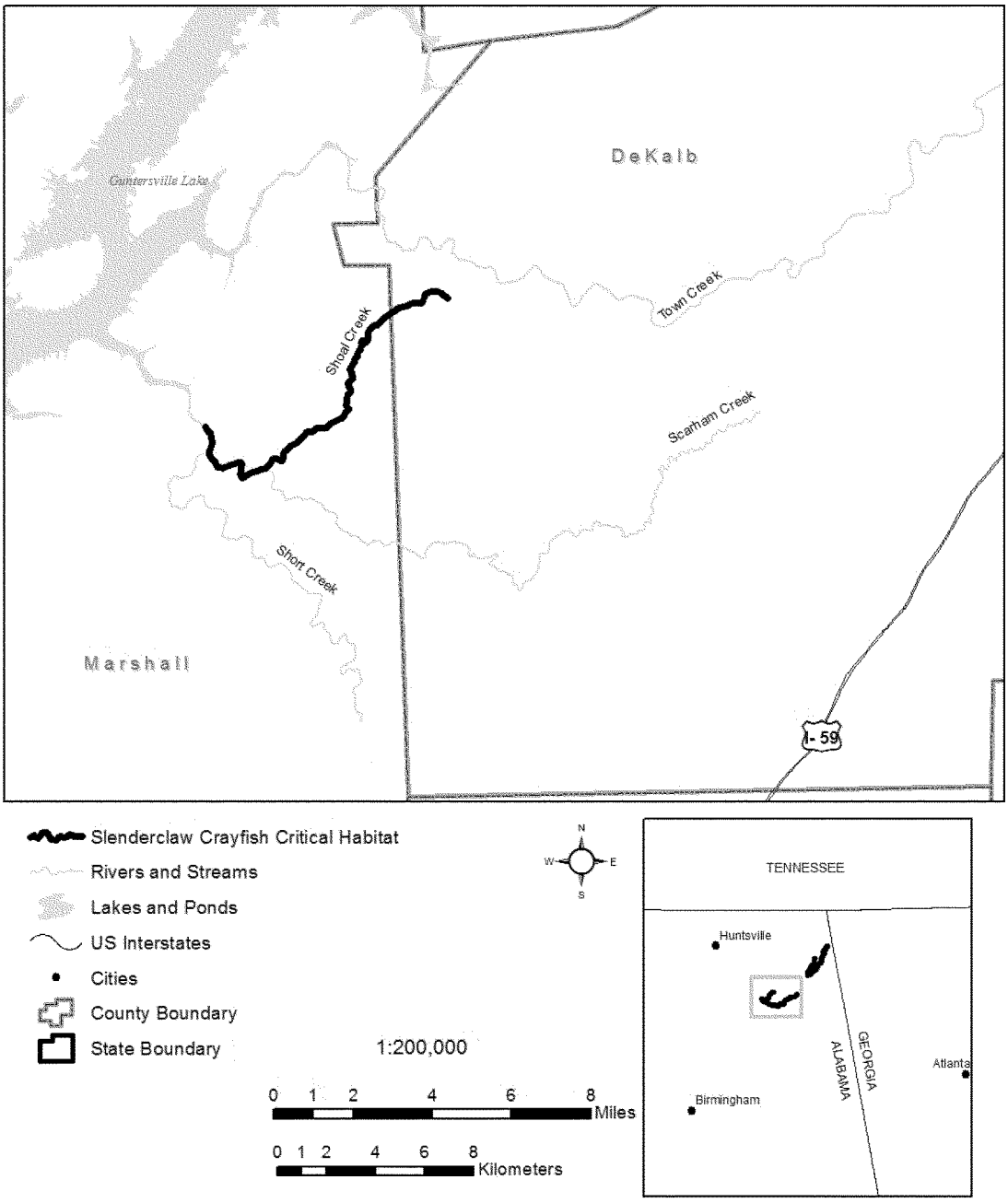
(i) Subunit 2a: Shoal Creek and Short Creek, DeKalb and Marshall Counties, Alabama.

(A) This subunit consists of 10.3 river miles (16.6 river kilometers) of occupied habitat in Scarham, Shoal, Short, and Whippoorwill Creeks. Subunit 2a includes stream habitat up to bank full height consisting of the headwaters of Shoal Creek to its confluence with Whippoorwill Creek, Whippoorwill Creek to its confluence with Scarham Creek, Scarham Creek to its confluence with Short Creek, and Short Creek to its downstream extent to the Guntersville Lake Tennessee Valley Authority project boundary.

(B) Map of Subunit 2a follows:

Subunit 2a: Shoal Creek and Short Creek Critical Habitat for Slenderclaw Crayfish (*Cambarus cracens*)

DeKalb and Marshall Counties, Alabama



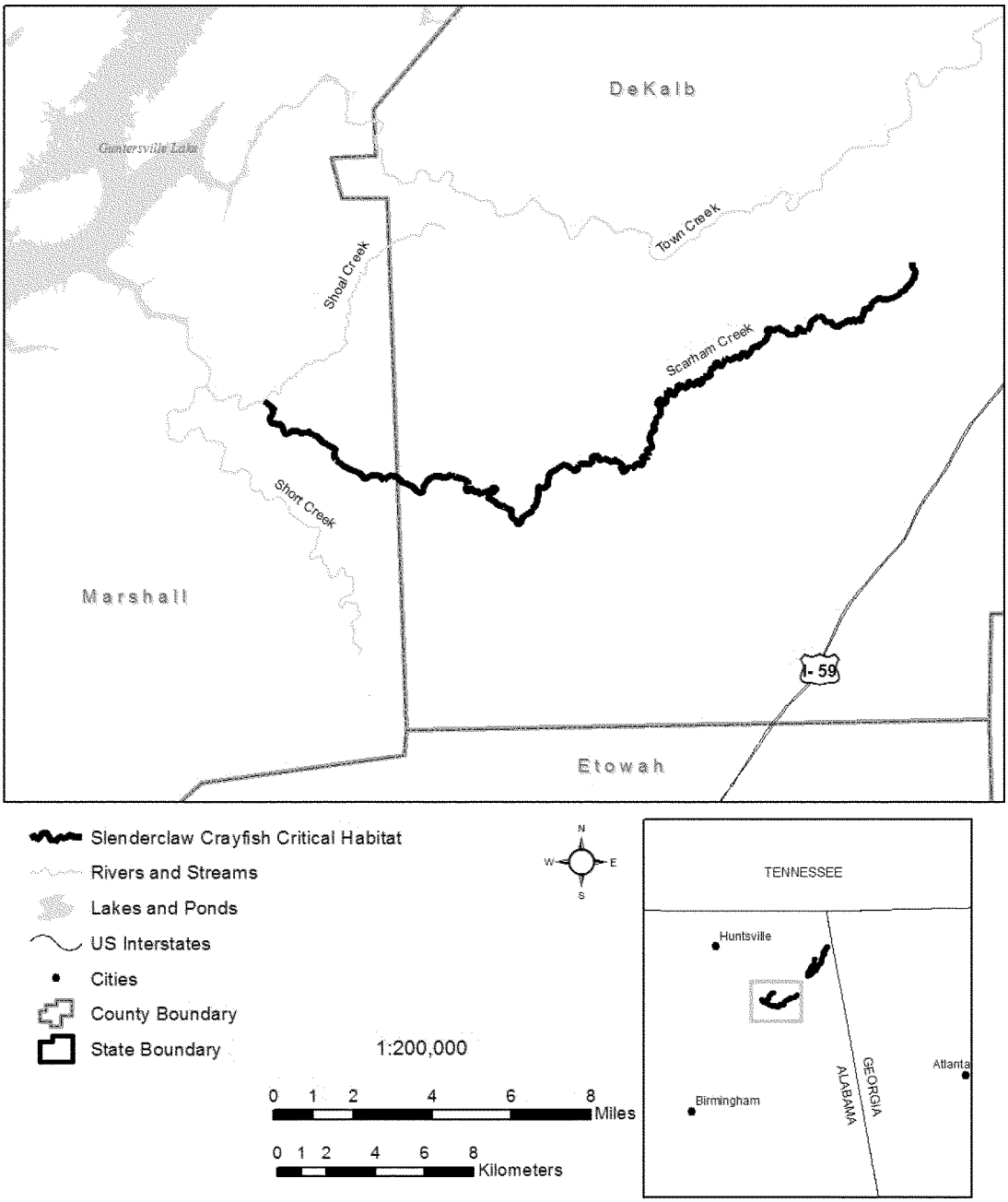
(ii) Subunit 2b: Scarham-Laurel Creek, DeKalb and Marshall Counties, Alabama.

(A) This subunit consists of 25.9 river miles (41.7 river kilometers) of unoccupied habitat in Scarham-Laurel Creek. Subunit 2b includes stream habitat up to bank full height consisting of the headwaters of Scarham-Laurel Creek to its confluence with Whippoorwill Creek.

(B) Map of Subunit 2b follows:

Subunit 2b: Scarham-Laurel Creek Critical Habitat for Slenderclaw Crayfish (*Cambarus cracens*)

DeKalb and Marshall Counties, Alabama



* * * * *

Dated: September 20, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–21797 Filed 10–5–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2018–0057; 4500030113]

RIN 1018–BD21

Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding and Threatened Species Status for Eastern Black Rail With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month petition finding on a petition to list the eastern black rail (*Laterallus jamaicensis jamaicensis*) as an endangered or threatened species under the Endangered Species Act of 1973 (Act), as amended. After review of the best available scientific and commercial information, we find that listing the eastern black rail is warranted. Accordingly, we propose to list the eastern black rail, a bird subspecies that occurs in as many as 35 States, the District of Columbia, Puerto Rico, and several countries in the Caribbean and Central America, as a threatened species under the Act. If we finalize this rule as proposed, it would extend the Act's protections to this subspecies and, accordingly, add this subspecies to the List of Endangered and Threatened Wildlife. We also propose a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the eastern black rail. We have determined that designation of critical habitat for the eastern black rail is not prudent at this time, but we are seeking public comment on that determination.

DATES: We will accept comments received or postmarked on or before December 10, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 23, 2018.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2018–0057, which is the docket number for this rulemaking. Then, click the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2018–0057, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

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

FOR FURTHER INFORMATION CONTACT: Tom McCoy, Field Supervisor, South Carolina Ecological Services Field Office, 176 Croghan Spur Road, Suite 200, Charleston, SC 29407; telephone 843–727–4707; facsimile 843–300–0204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if we determine that a species is an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule proposes to list the eastern black rail (*Laterallus jamaicensis jamaicensis*) as a threatened species and to provide measures under section 4(d) of the Act that are tailored to our current understanding of the conservation needs of the eastern black rail.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that habitat loss and destruction, sea level rise and tidal flooding, incompatible land management, and increasing storm intensity and frequency are the primary threats to this subspecies.

Peer review. We prepared a species status assessment report (SSA report) for the eastern black rail. The SSA report represents a compilation and assessment of the best scientific and commercial information available concerning the status of the eastern black rail, including the past, present, and future factors influencing the subspecies (Service 2018, entire). We solicited independent peer review of the SSA report by 10 individuals with expertise in rail biology and ecology and in species modeling; we received comments from 5 of the 10 reviewers. The reviewers were generally supportive of our approach and made suggestions and comments that strengthened our analysis. The SSA report and other materials relating to this proposal can be found at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2018–0057.

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The eastern black rail's biology, range, and population trends, including:

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

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

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

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

(2) Factors that may affect the continued existence of the subspecies, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to the eastern black rail and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of the eastern black rail, including the locations of any additional populations of this subspecies.

(5) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including the possible risks or benefits of designating critical habitat, including risks associated with publication of maps designating any area on which this subspecies may be located, now or in the future, as critical habitat. We specifically request information on the threats of taking or other human activity, particularly by birders, on the eastern black rail and its habitat, and the extent to which designation might increase those threats, as well as the possible benefits of critical habitat designation to the eastern black rail.

(6) Whether the measures outlined in the proposed section 4(d) rule are necessary and advisable for the conservation and management of the eastern black rail. We particularly seek comments concerning:

(a) Whether the provision related to the prescribed burn activities should be revised to include additional spatial or temporal restrictions or deferments, or additional best management practices;

(b) Whether the provision related to the haying, mowing, and mechanical treatment activities should be revised to include additional spatial or temporal restrictions or deferments;

(c) Whether the provision related to the grazing activities should be revised to include spatial or temporal restrictions or deferments. We also seek comment on the level of grazing density that is compatible with eastern black rail occupancy; and

(d) Whether there are additional provisions the Service may wish to consider for the section 4(d) rule in order to conserve, recover, and manage the eastern black rail, such as limitations on road construction and other infrastructure or construction activities, moist soil management, or structural marsh management activities.

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

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

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

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

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, South Carolina Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. We must receive requests within 45 days after the date of publication of this proposed rule in the **Federal Register** (see **DATES**, above). Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of that hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

The purpose of peer review is to ensure that our listing determination is based on scientifically sound data, assumptions, and analyses. In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we sought the expert opinions of 10 appropriate and independent specialists with expertise in eastern black rail ecology and modeling regarding the SSA report (Service 2018, entire) that supports this proposed rule. We received comments from 5 of the 10 peer reviewers.

Previous Federal Action

In April 2010, the Center for Biological Diversity (CBD) petitioned the Service to list 404 aquatic, riparian, and wetland species from the southeastern United States under the Act. The eastern black rail was among these 404 species. On September 27, 2011, the Service published a 90-day finding that the petition presented substantial scientific or commercial information indicating that listing may be warranted for 374 species, including the eastern black rail (76 FR 59836). On September 13, 2012, CBD filed a complaint against the Service for failure to complete a 12-month finding for the eastern black rail. On April 25, 2013, the Service entered into a settlement agreement with CBD to resolve the complaint; the court approved the agreement on April 26, 2013. The agreement specified that a 12-month finding for the eastern black rail would be delivered to the **Federal Register** by September 30, 2018. This document serves as our 12-month finding on the April 2010 petition.

Background

A thorough review of the taxonomy, life history, and ecology of the eastern black rail is presented in the SSA report (Service 2018, entire).

Taxonomy and Species Description

The eastern black rail is a subspecies of black rail, which is a member of the family Rallidae (rails, gallinules, and coots) in the order Gruiformes (rails, cranes, and allies; American Ornithologists' Union, 1998, p. 130). The eastern black rail is one of four recognized subspecies of black rail. The California black rail (*Laterallus jamaicensis coturniculus*) is the only other subspecies that occurs in North America; its range does not overlap with the eastern black rail Taylor and van Perlo 1998, p. 221; Clements *et al.* 2016, unpaginated). The Birds of North America and Avibase both currently recognize the eastern black rail as a valid subspecies (Eddleman *et al.* 1994, unpaginated; Avibase 2003, unpaginated). We have no information

to suggest there is scientific disagreement about the eastern black rail's taxonomy; therefore, we accept that the eastern black rail is a valid taxon.

The black rail is the smallest rail in North America. Males and females are similar in size, and adults are generally pale to blackish gray, with a small blackish bill and bright red eyes. The eastern black rail is larger (mean mass=35 grams) but has less brightly colored plumage than the California black rail (mean mass = 29 grams) (Eddleman *et al.* 1994, unpaginated).

The eastern black rail has four life stages: egg, chick, juvenile, and adult; we discuss specifics of each of these life stages in detail in our SSA report (Service 2018, pp. 8–12). Eastern black rail egg laying and incubation primarily occur from May to August, with some early nesting in March and April (Watts 2016, pp. 10–11; A. Moore and J. Wilson 2018, unpublished data). The chick stage occurs from May through September. The juvenile stage begins when a chick has fledged and is independent from the parents. Eastern black rails reach the sexually mature adult life stage the spring after hatch year. Adults undergo a complete postbreeding molt each year between July and September on the breeding grounds (Pyle 2008, p. 477; Hand 2017b, p. 15). During that time, individuals simultaneously lose all of their wing flight feathers and tail flight feathers, and are unable to fly for approximately 3 weeks (Flores and Eddleman 1991, pp. iii, 62–63; Eddleman, Flores, and Legare 1994, unpaginated). We recognize that there is latitudinal variability of these life-history events across the range of the eastern black rail. The subspecies' lifespan is not known.

The nature of migration for the eastern black rail is poorly understood. Preliminary results suggest there are two populations of eastern black rail in the south-central United States: A migratory population breeding in Colorado and Kansas, and wintering in Texas; and a non-migratory population living in Texas year-round (Butler 2017, pers. comm.). Additionally, it is suspected that the northern U.S. Atlantic coast population migrates and winters on the southern Atlantic coast (*e.g.,* the Carolinas and Florida) and also in the Caribbean and Central America (Eddleman, Flores, and Legare 1994, unpaginated; Taylor and van Perlo, 1998, pp. 221–222).

Distribution

The eastern black rail occupies portions of the eastern United States (east of the Rocky Mountains), Mexico, Central America, and the Caribbean. Individuals that are presumed to be the eastern black rail have also been reported on occasion in Brazil. In the United States, eastern black rails are found in both coastal and inland areas, but the majority of detections are from coastal sites. In a recent assessment of 23 States that comprise the primary area of the subspecies' range within the contiguous United States (*i.e.,* along the Atlantic and Gulf Coasts), approximately 90 percent of documented breeding-season occurrence records occurred at coastal locations (Watts 2016, p. 117). Inland records accounted for less than 10 percent of total occurrences, and more than 60 percent of the inland records occurred before 1950 (Watts 2016, p. 117). The eastern black rail has been reported to occur throughout the Caribbean and Central America, and it has been hypothesized that some birds may migrate from the coastal United States to the Caribbean in the winter; however, the subspecies' distribution is poorly understood (Taylor and van Perlo 1998, pp. 221–222). There have been very few reports of eastern black rails in recent years from the Caribbean and Central America. It is not certain whether this is due to lack of survey effort, loss of habitat, predation, or a combination of these.

See the figure, below, for a distribution map for the eastern black rail. This figure shows the current areas where black rails are found year-round and in the spring and summer. Shaded countries and U.S. States are those that may have detections of eastern black rails; however, detections in these countries or U.S. States may be few in number and the bird may not be detected regularly, *i.e.,* it may be considered a vagrant or accidental migrant in these areas. The individual detections in Central America, the Caribbean, and Brazil occurred from 2011 to present.

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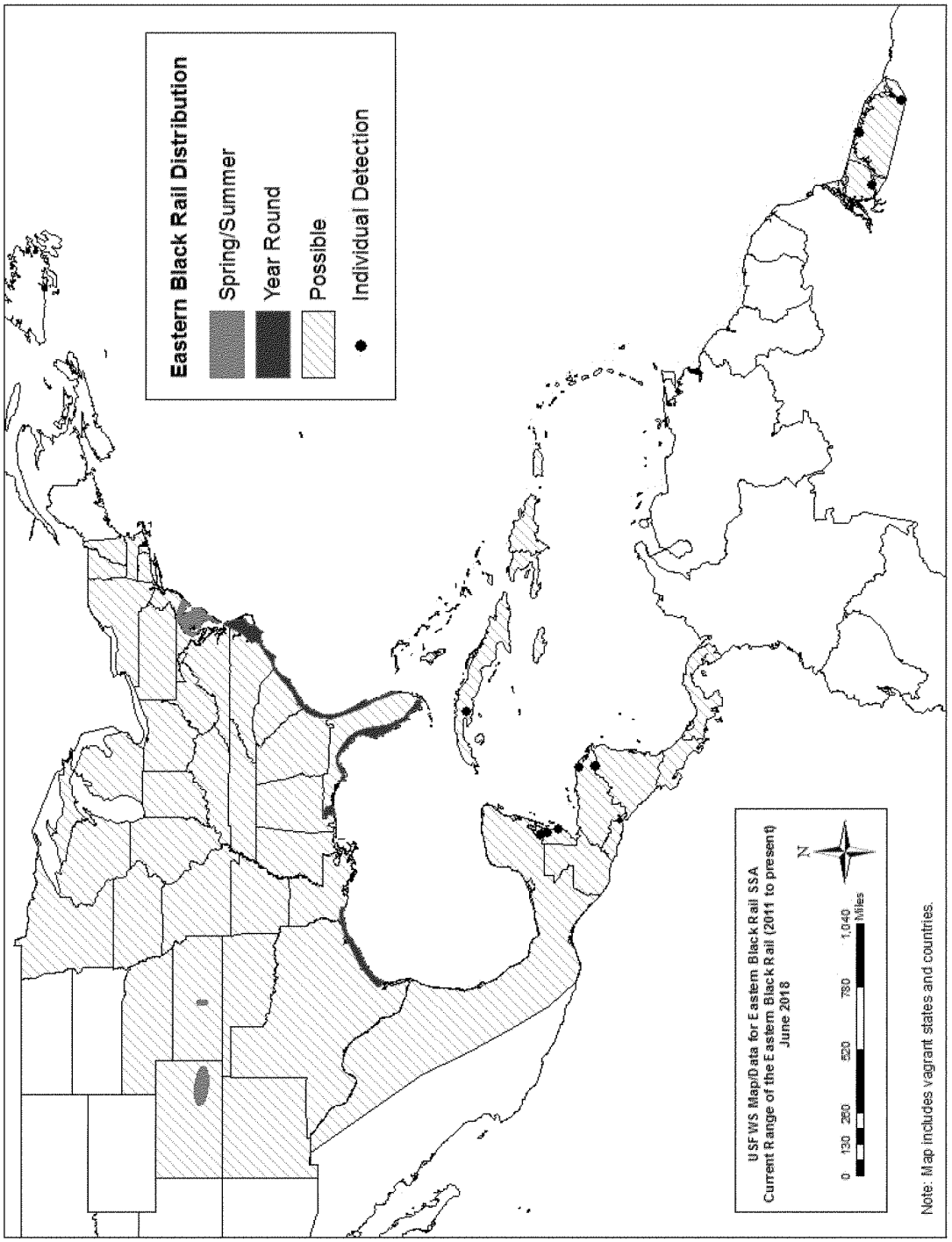
Distribution Map of the Eastern Black Rail



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Habitat

Eastern black rails are found in a variety of salt, brackish, and freshwater marsh habitats that can be tidally or non-tidally influenced. Within these habitats, the birds occupy relatively high elevations along heavily vegetated wetland gradients, with soils that are moist or flooded to a shallow depth (Eddleman, Knopf, Meanley, Reid, and Zembal 1988, p. 463; Nadeau and Conway 2015, p. 292). Eastern black rails require dense vegetative cover that allows movement underneath the canopy. Plant structure is considered more important than plant species composition in predicting habitat suitability for the subspecies (Flores and Eddleman 1995, pp. 357, 362). Occupied habitat tends to be primarily composed of fine-stemmed emergent plants (rushes, grasses, and sedges) with high stem densities and dense canopy cover (Flores and Eddleman 1995, p. 362; Legare and Eddleman 2001, pp. 173–174). However, when shrub densities become too high, the habitat becomes less suitable for eastern black rails. Soils are moist to saturated (occasionally dry) and interspersed with or adjacent to very shallow water (1 to 6 centimeters) (Legare and Eddleman 2001, pp. 173, 175). Eastern black rails forage on a variety of small (<1 centimeter (cm) (0.39 inches (in))) aquatic and terrestrial invertebrates, especially insects, and seeds (*e.g.,*

Typha, Scirpus, Spartina spp.) by gleaning or pecking at individual items (Eddleman, Flores, and Legare 1994, unpaginated; Ehrlich, Dobkin, and Wheye 1988, p. 102).

Species Needs

The eastern black rail is a wetland dependent subspecies. While it can be found in salt, brackish, and freshwater marshes that are tidally or non-tidally influenced, it has a very specific niche habitat. It requires dense herbaceous vegetation to provide shelter and cover and areas for protected nest sites; it is not found in areas with woody vegetation.

The bird requires shallow water or moist soil for its nesting sites. Ideally, the water level is 1 to 6 cm (0.39 to 2.36 in), although less than 3 cm (1.18 in) is ideal for foraging and chick rearing. Water levels must be below the nests during egg laying and incubation for nests to be successful. Eastern black rails require elevated refugia with dense cover to survive high water events, because juvenile and adult black rails prefer to walk and run rather than fly and chicks are unable to fly. Eastern black rails fly little during the breeding and wintering seasons—they prefer to remain on the ground, running quickly through dense vegetation—and are considered secretive because of this behavior. Having higher elevation areas with dense vegetation allows the birds to escape flood events during the flightless molt period, and provides shelter from predators.

Summary of Biological Status and Threats

We completed a comprehensive assessment of the biological status of the eastern black rail, and prepared a report of the assessment (SSA report; Service 2018, entire), which provides a thorough account of the subspecies' overall viability. Below, we summarize the key results and conclusions of the SSA report, which can be viewed under Docket No. FWS–R4–ES–2018–0057 at *http://www.regulations.gov.*

To assess eastern black rail viability, we used the three conservation biology principles of resiliency, representation, and redundancy (together, ''the three Rs,'' (3Rs)) (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency refers to the ability of a species to withstand environmental and demographic stochasticity (for example, wet or dry years); representation refers to the ability of the species to adapt over time to long-term changes in the environment (for example, climate change); and redundancy refers to the ability of the species to withstand catastrophic events (for example, hurricanes). In general, the more redundant and resilient a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the eastern black rail's ecological requirements for survival and reproduction at the individual, population, and subspecies levels, and described the beneficial and risk factors influencing the subspecies' viability.

We delineated analysis units for the eastern black rail based on environmental variables (aquifer permeability, slope, mean precipitation, mean potential evapotranspiration, and percent sand in soil). We used 8,281 point localities from combined datasets (*i.e.,* eBird, Center for Conservation Biology, University of Oklahoma, and additional research partners) from 1980 through 2017, to delineate the analysis units for the eastern black rail. We named the analysis units using standard topographic and ecological landmarks: New England, Mid-Atlantic Coastal Plain, Appalachians, Southeast Coastal Plain, Southwest Coastal Plain, Central Lowlands, and Great Plains. Based on available data, we have concluded that the New England, Appalachians, and Central Lowlands analysis units are effectively extirpated. While these three analysis units historically did not support abundances of the eastern black rail as high as the other four analysis units, an evaluation of the current status information, including the paucity of current records, negative survey results, and the demonstrated range contraction throughout these areas, supports our conclusion that the eastern black rail is effectively extirpated from these analysis units. The remaining four analysis units, the Mid-Atlantic Coastal Plain, Southeast Coastal Plain, Southwest Coastal Plain, and Great Plains, have records of current populations of eastern black rails.

To assess resiliency, we analyzed occupancy within the analysis units through the creation of a dynamic occupancy model. We used data from repeated presence/absence surveys across the range of the eastern black rail to estimate the probability of presence at a site and related the occupancy probability to environmental covariates of interest (wettest month precipitation, temperature range, annual mean temperature, coldest month mean temperature, presence/absence of fire ants, and State identification). The lower the occupancy probability in an analysis unit, the less resiliency that analysis unit exhibits. We found the four extant analysis units (Southeast Coastal Plain, Mid-Atlantic Coastal Plain, Great Plains, and Southwest Coastal Plain) to have very low occupancy probabilities ranging from 0.099 to 0.25. The results also indicated fairly high site extinction probabilities with accompanying low site persistence.

To assess representation, we used two metrics to estimate and predict representative units that reflect the subspecies' adaptive capacity: Habitat variability and latitudinal variability. The eastern black rail exhibits adaptive potential by using similar habitat elements within different wetland types (habitat variability) within analysis units, *i.e.,* higher elevation areas within wetlands with dense vegetation, moist soils, and shallow flood depths (Eddleman, Knopf, Meanley, Reid, and Zembal 1988, p. 463; Nadeau and Conway 2015, p. 292). Therefore, the subspecies shows a level of adaptive capacity by using different wetland types that contain the required habitat elements. Additionally, we used the metric of latitudinal variability to reflect the eastern black rail's wide range across the contiguous United States. To maintain existing adaptive capacity, it is important to have resilient populations (analysis units) that exhibit habitat variability and latitudinal variability to maintain adaptive capacity.

To assess redundancy, we evaluated the current distribution of eastern black rail analysis units through their present-day spatial locations. To have high redundancy, the eastern black rail would need to have multiple resilient analysis units spread throughout its range.

Current Condition of Eastern Black Rail

Historically, the eastern black rail ranged across the eastern, central, and southern United States; historical records also exist from the Caribbean and Central America. It occupied multiple areas of wetlands (including salt marshes, coastal prairies, and hay fields) throughout the range; approximately 90 percent of documented breeding-season occurrence records occurred at coastal locations and less than 10 percent were inland records, with more than 60 percent of the inland records occurring before 1950 (Watts 2016, entire). The eastern black rail also occupied multiple areas of wetlands within each analysis unit. Within the northeastern United States, historical (1836–2010) records document the eastern black rail as present during breeding months from Virginia to Massachusetts, with 70 percent of historical observations (773 records) in Maryland, Delaware, and New Jersey (Watts 2016, p. 22).

Maryland, Delaware, and New Jersey are considered historical strongholds for eastern black rail in this region of the United States (the Northeast) as well as across the subspecies' entire breeding range (Watts 2016, p. 22), due to the total number and frequency of observations reported over time. Virginia, New York, and Connecticut account for an additional 21 percent of the historical records (235 records) from the Northeast (Watts 2016, p. 22). Recent (2011–2016) records from the Northeast are low in number (64 records), with almost all records restricted to outer coastal habitats (Watts 2016, pp. 22, 24). The distribution of the recent records points toward a substantial southward contraction in the subspecies' range of approximately 450 kilometers (280 miles), with vacated historical sites from 33 counties extending from the Newbury marshes in Massachusetts to Ocean County, New Jersey (Watts 2016, pp. 24, 119). Further, the distribution of the recent records has become patchy along the Atlantic coast, and an evaluation of the records within the 15 counties still currently occupied suggests an almost full collapse of the eastern black rail population in the Northeast (Watts 2016, p. 24).

While the Appalachians and Central Lowlands analysis units supported less habitat for eastern black rails compared to the more coastal analysis units, interior occurrences were more common historically. Current population estimates for States with a large area occurring within the boundaries of the Appalachians analysis unit are effectively zero (Watts 2016, p. 19). Within that unit, an estimated 0 to 5 breeding pairs currently occur in Pennsylvania, and no breeding pairs are thought to occur in New York or West Virginia (Watts 2016, p. 19). Birds previously detected in the Appalachians analysis unit were found in small depressional wetlands within active pastures; other freshwater wetlands dominated by cattails, rushes, or sedges; and drainage ditches (Watts 2016, pp. 48, 74). While these wetland types still exist within the analysis unit and may support individuals or a very low-density, scattered population (Watts 2016, pp. 48, 74), a substantial amount of this kind of habitat has been lost primarily due to the draining of freshwater wetlands for agricultural purposes. These estimates likely hold true for the interior portions of the other States within the Appalachians analysis unit (based on few current detections). Similar losses of habitat have occurred in the Central Lowlands analysis unit, and there are currently few detections of eastern black rails across this unit. Moreover, the current detections are not consistent from year to year even when habitat remains suitable. For example, Indiana Department of Natural Resources surveys for eastern black rails at multiple sites from 2010–2016 yielded one detection at a single site previously known to support eastern black rails (Gillett 2017, unpublished data).

In the Chesapeake Bay region, the distribution of eastern black rail has contracted, and the counts of birds have declined. A series of systematic surveys for eastern black rails has been conducted around the Chesapeake Bay since the early 1990s (Watts 2016, pp. 59, 67). Surveys estimated 140 individuals in the 1990–1992 survey period, decreasing to 24 individuals in 2007, and only 8 individuals in 2014, a decline of over 90 percent in less than 25 years (Watts 2016, p. 59; D. Brinker, unpublished data). Of 328 points surveyed in Virginia in 2007, 15 birds were detected; a second round of surveys in 2014 yielded two detections at 135 survey points (including all survey points with positive occurrences in the 2007 survey effort), equating to an 85 percent decline over 7 years (Watts 2016, pp. 67, 71; Wilson *et al.* 2015, p. 3).

Historically, the eastern black rail was also present during breeding months at inland and coastal locations throughout southeastern coastal States (the Southeast), a region that included North Carolina, South Carolina, Georgia, Florida, Tennessee, Mississippi, Alabama, Louisiana, and Texas (Watts 2016, pp. 75–76). Of these States, Texas, Florida, South Carolina, and North Carolina contained 89 percent of all historical observations (734 records) (Watts 2016, p. 77). The other States (Georgia, Tennessee, Mississippi, Alabama, and Louisiana) either do not have a history of supporting eastern black rails consistently or are considered to be on the peripheries of known breeding areas (Watts 2016, p. 77). Recently, there have been 108 records of eastern black rails during the breeding season, and at a coarse view, the same four southeastern States that substantially supported the subspecies historically still support the subspecies (Watts 2016, pp. 77, 79). However, North Carolina shows a severe decline in the number of occupied sites, with only four properties occupied in 2014–2015, down from nine in 1992–1993 (Watts 2016, p. 80). Additional surveys in 2017 yielded no new occupied sites in coastal North Carolina (B. Watts and F. Smith 2017, unpublished data). South Carolina shows a limited distribution, with two known occupied areas (Wiest 2018, pers. comm.) and an estimated 50 to 100 breeding pairs, leaving Texas and Florida as the current strongholds for the Southeast. At the time of the 2016 coastal assessment, it was surmised that coastal Georgia may support a breeding population of unknown size (Watts 2016, pp. 93–95); however, a coastwide survey in 2017 at 409 survey points in Georgia yielded no detections of eastern black rails (B. Watts and F. Smith 2017, unpublished data). In short, across the Atlantic and Gulf Coasts, recent observations show poor presence inland and a widespread reduction in the number of sites used across coastal habitats (Watts 2016, p. 79).

The history of the subspecies' distribution in the interior continental United States is poorly known. Historical literature indicates that a wide range of interior States were occupied by the eastern black rail, either regularly or as vagrants (Smith-Patten and Patten 2012, entire). Eastern black rails are currently vagrants (casual or accidental) in Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Ohio, South Dakota, and Wisconsin (Smith-Patten and Patten 2012, entire). Presently, eastern black rails are reliably located within the Arkansas River Valley of Colorado (presumed breeder in the State), and in southcentral Kansas in Stafford, Finney, Franklin, Barton, and Riley Counties (confirmed breeder in the State) (Butler, Tibbits, and Hucks 2014, p. 20; Smith-Patten and Patten 2012, pp. 9, 17). In Colorado, the subspecies is encountered in spring and summer at Fort Lyon Wildlife Area, Bent's Old Fort, Oxbow State Wildlife Area, Bristol (Prowers County), and John Martin Reservoir State Park (Smith-Patten and Patten 2012, p. 10). In Kansas, eastern black rails are regularly present during the breeding months at Quivira National Wildlife Refuge (NWR) and Cheyenne Bottoms Wildlife Area (Smith-Patten and Patten 2012, p. 17), and at Cheyenne Bottoms Preserve during wet years when habitat conditions are suitable (Penner 2017, pers. comm.). In Oklahoma, occurrence mapping suggests that this subspecies had at a maximum a patchy historical distribution throughout the State.

Eastern black rail analysis units currently have low to no resiliency in the contiguous United States (Service 2018, pp. 79–82). The Great Plains, Southwest Coastal Plain, and Southeast Coastal Plain analysis units have low resiliency based on the dynamic occupancy model results, which indicate very low occupancy

probabilities in each modeled analysis unit: 0.25 in the Southwest Coastal Plain, 0.13 in the Great Plains, and 0.099 in the Southeast Coastal Plain. The Mid-Atlantic Coastal Plain analysis unit currently exhibits very low resiliency for the eastern black rail. It supports fewer birds and has fewer occupied habitat patches than the Southeast Coastal Plain analysis unit. The remaining three analysis units, New England, Appalachians, and Central Lowlands, currently demonstrate no resiliency. These three units historically did not support abundances of the eastern black rail as high as the other four analysis units. There are currently insufficient detections to model these units; recent detections (2011 to present) are fewer than 20 birds for each analysis unit. An evaluation of current status information yields that eastern black rails are effectively extirpated from portions of the New England, Appalachians, and Central Lowlands analysis units that were once occupied. Lastly, resiliency is unknown for the Central America and Caribbean portion of the eastern black rail's range. However, the sparsity of historical and current records, including nest records, indicates that resiliency outside of the contiguous United States is likely low. All recent sightings in Central America and the Caribbean have been of adult eastern black rails; there are no reports of nests, chicks, or juveniles.

To assess current representation, we evaluated both habitat variability and latitudinal variability. When considering habitat variability, we determined the eastern black rail has a level of adaptive potential by using similar habitats elements (*i.e.,* higher elevation areas within wetlands with dense vegetation, moist soils, and shallow flood depth) within different wetland types within analysis units. However, there may be unknown factors that influence and affect the eastern black rail's use of wetland habitat, as not all apparently suitable wetland habitat is currently occupied. While the New England, Appalachians, and Central Lowlands analysis units have experienced wetland habitat loss and fragmentation, wetland habitats continue to be present on the landscape. However, the eastern black rail is not being found in these three analysis units. Historically, the eastern black rail had a wide distribution and exhibited latitudinal variability. However, as discussed above, three of the analysis units (New England, Appalachians, and Central Lowlands) are effectively extirpated, and, therefore, this latitudinal variability (higher latitudes) has effectively been lost to the subspecies. Therefore, even though the eastern black rail still occurs at varying latitudes, we conclude that the subspecies currently has reduced representation across its range.

Despite having a wide distribution, the eastern black rail currently has low redundancy across its range. With the loss of three analysis units in upper latitudes of the range, the subspecies has reduced ability to withstand catastrophic events, such as hurricanes and tropical storms, which could impact the lower latitudinal analysis units. Given the lack of habitat connectivity, and patchy and localized distribution, it would be difficult for the subspecies to recover from a catastrophic event in one or more analysis units.

Risk Factors for Eastern Black Rail

The Act directs us to determine whether any species is an endangered species or a threatened species because of any factors affecting its continued existence. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

We reviewed the potential risk factors (*i.e.,* threats or stressors) that are affecting the eastern black rail now and into the future. In this proposed rule, we will discuss in detail only those threats that we conclude are driving the status and future viability of the species. The primary threats to eastern black rail are: (1) Habitat fragmentation and conversion, resulting in the loss of wetland habitats across the range (Factor A); (2) sea level rise and tidal flooding (Factors A and E); (3) incompatible land management practices (*i.e.,* fire management, grazing, and haying/mowing) (Factors A and E); and (4) stochastic events (*e.g.,* extreme flooding, hurricanes) (Factor E). Human disturbance, such as birders using playback calls of black rail vocalizations (Factor B), is also a concern for the species. Additional stressors to the species (including oil and chemical spills and environmental contaminants (Factor E); disease, specifically West Nile virus (Factor C); and altered food webs resulting from invasive species (fire ants, feral pigs, mongoose, and exotic reptiles) introductions (Factor C)) are discussed in the SSA report (Service 2018, entire). However, although these additional stressors may be having localized impacts, they are not the primary drivers of the status of the subspecies, and so we do not discuss them in detail in this document. We also reviewed the conservation efforts being undertaken for the subspecies. No existing regulatory mechanisms adequately address these threats to the eastern black rail such that it does not warrant listing under the Act (Factor D).

Habitat Fragmentation and Conversion

The eastern black rail is a wetland-dependent bird requiring dense emergent cover and extremely shallow water depths (less than 6 cm) over a portion of the wetland-upland interface to support its resource needs. Grasslands and their associated palustrine (freshwater) and estuarine wetland habitats have experienced significant loss and conversion since European settlement (Bryer, Maybury, Adams, and Grossman 2000, p. 232; Noss, LaRoe, III, and Scott 1995, pp. 57–76, 80–84; Hannah, Carr, and Lankerani 1995, pp. 137, 151). Approximately 50 percent (greater than 100 million acres) of the wetlands in the conterminous United States have been lost over the past 200 years; the primary cause of this loss was conversion for agricultural purposes (Dahl T. E. 1990, p. 9). Wetland losses for the States within the eastern black rail's historical range have been from 9 percent to 90 percent, with a mean of 52 percent (Dahl T. E. 1990, p. 6). Similarly, most of the native grassland/prairie habitats associated with eastern black rail habitat have been lost since European settlement (Sampson and Knopf 1994, pp. 418–421).

The eastern black rail also uses the transition zone (ecotone) between emergent wetlands and upland grasslands. These transitional areas are critical to eastern black rails, as they provide refugia during high-water events caused by precipitation or tidal flooding. These habitat types have also experienced significant declines over time (Sampson and Knopf 1994, pp. 418–421), with many areas within the eastern black rail's historical range losing over 90 percent of their prairie habitat. Most of this loss can be attributed to agricultural conversion (Sampson and Knopf 1994, pp. 419–420). Many of the freshwater wetlands associated with these grasslands were emergent and ephemeral in nature, and would have supported eastern black rails. For example, in Texas, between the 1950s and 1990s, 235,000 acres, or 29 percent, of freshwater wetlands within Gulf coastal prairie were converted primarily to agriculture. This value does not include the numbers of

upland prairie acres that were also converted (Moulton, Dahl, and Dahl 1997, entire).

Despite regulatory efforts to minimize the loss of wetland habitats, losses and alterations continue to occur to habitats occupied by the eastern black rail. Marshes continue to face substantial impacts from dikes, impoundments, canals, altered freshwater inflows, erosion, relative sea level rise, tidal barriers, tropical storm events, and other natural and human-induced factors (Adam 2002, entire; Turner 1990, entire; Kennish 2001, entire; Gedan *et al.* 2009, entire; Tiner 2003, p. 513). Estuarine emergent wetland losses are mostly attributable to conversion to open water through erosion (Dahl and Stedman 2013, p. 37), while freshwater emergent wetland losses appear to be the result of development (Dahl and Stedman 2013, p. 35). Because the rail is a wetland-dependent subspecies, the loss and alteration of palustrine and estuarine wetlands and associated grassland habitats have a negative impact.

Within the range of the eastern black rail, land use in the United States has affected and continues to affect groundwater and surface water resources (Johnston 1997, entire; McGuire 2014, pp. 1–2, 7, 9; Juracek and Eng 2017, pp. 1, 11–16; Barfield 2016, pp. 2–4). The conversion of wetland habitat, largely for agricultural use, was mentioned above. However, habitat conversion and land use directly and indirectly affect water resources, largely tied to the interaction of groundwater and surface water resources (Glazer and Likens 2012, entire; Sophocleous 2002, entire; Tiner R. W. 2003, p. 495; U.S. Geological Survey (USGS) 2016a, unpaginated; Konikow L. F. 2015, entire).

Where groundwater resources are hydraulically connected to surface water resources, these connections can either be unconfined (water table) or confined (springs) aquifers. In unconfined aquifers, locations can support surface features such as wetlands or riparian habitats where groundwater is located near the land surface (Haag and Lee 2010, pp. 16–19, 21–24). Lowering of groundwater through withdrawals via wells or ditches can cause wetlands to shrink or become dry. Withdrawals of confined aquifers can lead to the drying of springs and associated wetland habitats (Weber and Perry 2006, p. 1255; Metz 2011, p. 2). In the central and southcentral United States, high groundwater use, largely attributed to cropland irrigation and other human activities, may affect the long-term sustainability of water resources, including causing wetland loss (McGuire 2014, entire; Juracek 2015, entire; Juracek and Eng 2017, entire; Juracek, Eng, Carlisle, and Wolock 2017, entire; Perkin *et al.* 2017, entire).

Human modifications to the environment have led to significant changes in vegetation. Some of these modifications include water withdrawals and the construction of levees, drainage canals, and dams. Changes to native vegetation can result in changes to the structure of the habitat (*e.g.,* conversion from emergent to scrub-shrub wetlands, wetland into upland habitat, or vice-versa), as well as the introduction of invasive plant species (*e.g., Phragmites australis;* Crain, Gedan, and Dionne 2009, p. 157). Given the narrow habitat preferences of the eastern black rail (*i.e.,* very shallow water and dense emergent vegetation), small changes in the plant community can easily result in habitat that is not suitable for the subspecies.

Subsidence (lowering of the earth's surface) is caused by the withdrawal of liquids from below the ground's surface, which relieves supporting hydraulic pressure of liquids by the long-term compression of unconsolidated, geologically deposited sediments, or by other geologic processes (Day *et al.* 2011, p. 645; Karegar, Dixon, and Engelhart 2016, p. 3129; White and Tremblay 1995, entire). Localized subsidence can occur with groundwater withdrawals where withdrawal rates are greater than the aquifer recharge rates (White and Tremblay 1995, pp. 794–804; Morton, Bernier, and Barras 2006, p. 271) or where liquids associated with hydrocarbon extraction have caused the lowering of ground elevations (Morton, Bernier, and Barras 2006, p. 263). On the Atlantic coast, an area of rapid subsidence exists between Virginia and South Carolina, where the rate of subsidence has doubled due to increased groundwater withdrawals (Karegar, Dixon, and Engelhart 2016, pp. 3131–3132). An extreme example of subsidence in the United States is along the Gulf of Mexico coast, where both subsurface liquid withdrawal and sediment consolidation have significant influence on coastal wetland habitats (Turner 1990, pp. 93–94, 96, 98; Morton, Bernier, and Barras 2006, entire; White and Tremblay 1995, pp. 795–804). Subsidence combined with sea level rise is referred to as relative sea level rise, and the Gulf of Mexico has the highest relative sea level rise rates in the conterminous United States, leading to significant losses in wetland habitats (NOAA 2018, unpaginated).

Subsidence can affect the eastern black rail and its habitat in both fresh and tidal wetlands. Vegetated wetland habitats used by the eastern black rail can be converted to unvegetated open water or mudflats through drowning of vegetation or erosion from increased wave energy. Locations with higher subsidence rates can experience increased tidal flooding sooner than areas with lower subsidence rates. The effect of increased tidal flooding will change black rail habitat over time (*i.e.,* marsh migration) but can have direct impacts on black rail reproduction when flooding occurs during the breeding season.

Extensive drainage features have been created or modified in the United States, primarily to reduce flooding to protect agricultural land or infrastructure. These include excavation of drainage ditches, channelization of rivers and streams, construction of levees and berms, tidal restrictions, and diversions of waterways. Extensive areas of Florida were channelized in an effort to drain wetlands in the early 1900s (Renken *et al.* 2005, pp. 37–56). Most, if not all, of the coastal plain in Texas contains existing drainage features that were either created or modified to reduce flooding of agricultural lands and associated communities. These features can reduce or eliminate the hydroperiod to sustain associated wetlands by removing water rapidly off the landscape (Blann, Anderson, Sands, and Vondracek 2009, pp. 919–924). In glaciated geographies such as the Midwest, drain tiles and other methods have been used to drain wetlands to improve conditions for agricultural production (Blann, Anderson, Sands, and Vondracek 2009, pp. 911–915). Approximately 90 percent of the salt marshes on the northeast United States coast have been ditched to control mosquitoes (Bourn and Cottam 1950, p. 15; Crain, Gedan, and Dionne 2009, pp. 159–161). Ditching increases the area of the marsh that is inundated as well as drained (Crain, Gedan, and Dionne 2009, p. 160; Daiber 1986, in Crain *et al.* 2009, p. 160).

Levees have been constructed in flood-prone areas to minimize damage to crops and local communities. Levees can modify the duration, intensity, and frequencies of hydroperiods associated with riparian and tidal wetlands and thus change the nature and quality of wetland habitat, including that used by marsh-dependent species (Kennish 2001, p. 734; Adam 2002, p. 46; Walker, Coleman, Roberts, and Tye 1987, pp. 197–198; Bryant and Chabreck 1998, p. 421; Kuhn, Mendelssohn, and Reed 1999, p. 624). They also facilitate the movement patterns of mesopredators and improve their access to wetland

habitats (Frey and Conover 2006, pp. 1115–1118). Navigation channels and their management have had extensive impacts to tidal wetlands (*e.g.,* in Louisiana). These channels can modify the vegetation community of associated wetlands and can increase the frequency of extreme high tide or high flow events by providing a more direct connection to the influencing water body (Turner 1990, pp. 97–98; Kennish 2001, pp. 734–737; Bass and Turner 1997, pp. 901–902). Tidal restrictions, such as water control structures, bridges, and culverts built for the purposes of flood protection, restricting salt water intrusion, and modification of vegetation, have also affected coastal salt marshes.

All of these alterations to drainage affect the hydrology, sediment and nutrient transport, and salinities of wetland habitats used by the eastern black rail, which in turn affect the habitat's composition and structure. These changes can lead to instability in the duration and intensity of hydroperiods, affect associated vegetation communities, and impact the ability of marsh habitats to adapt to changing conditions. This ultimately affects the ability of the habitat to support populations of the eastern black rail, by exposing eastern black rails to unsuitable water regimes or converted habitats.

Sea Level Rise and Tidal Flooding

Representative concentration pathways (RCPs) are the current set of scenarios used for generating projections of climate change; for further discussion, please see the SSA report (Service 2018, entire). Recent studies project global mean sea level rise to occur within the range of 0.35 to 0.95 meters (m) (1.14 to 3.11 feet (ft)) for RCP 4.5, and within the range of 0.5 to 1.3 m (1.64 to 4.27 ft) for RCP 8.5, by 2100 (Sweet *et al.* 2017, p. 13). The Northeast Atlantic and western Gulf of Mexico coasts are projected to have amplified relative sea level rise greater than the global average under almost all future sea level rise scenarios through 2100 (Sweet *et al.* 2017, p. 43).

Sea level rise will amplify coastal flooding associated with both high tide floods and storm surge (Buchanan, Oppenheimer, and Kopp 2017, p. 6). High tide flooding currently has a negative impact on coastal ecosystems and annual occurrences of high tide flooding have increased five- to ten-fold since the 1960s (Reidmiller *et al.* 2018, p. 728). In addition, extreme coastal flood events are projected to increase in frequency and duration, and the annual number of days impacted by nuisance flooding is increasing, along the Atlantic and Gulf Coasts (Sweet *et al.* 2017, p. 23). Storm surges from tropical storms will travel farther inland.

Along the Texas Gulf Coast, relative sea level rise is twice as large as the global average (Reidmiller *et al.* 2018, p. 969). Over the past 100 years, local sea level rise has been between 12.7 to 43.2 cm (5 to 17 in), resulting in an average loss of 73 hectares (180 acres) of coastline per year, and future sea level rise is projected to be higher than the global average (Reidmiller *et al.* 2018, p. 972; Runkle *et al.* 2017b, p. 4). In South Carolina, sea level has risen by 3.3 cm (1.3 in) per decade, nearly double the global average, and the number of tidal flood days has increased (Runkle *et al.* 2017c, p. 4). Projected sea level rise for South Carolina is higher than the global average, with some projections indicating sea level rise of 1.2 m (3.9 ft) by 2100 (Runkle *et al.* 2017c, p. 4). The number of tidal flood days are projected to increase and are large under both high and low emissions scenarios (Runkle *et al.* 2017c, p. 4). Similarly, in Florida, sea level rise has resulted in an increased number of tidal flooding days, which are projected to increase into the future (Runkle *et al.* 2017a, p. 4).

Even with sea level rise, some tidal wetlands may persist at slightly higher elevations (*i.e.,* ''in place'') for a few decades, depending on whether plant primary productivity and soil accretion (which involves multiple factors such as plant growth and decomposition rates, build-up of organic matter, and deposition of sediment) can keep pace with the rate of sea level rise, thus avoiding ''drowning'' (Kirwan, Temmerman, Skeehan, Guntenspergen, and Fagherazzi 2016, entire). Under all future projections, however, the rate of sea level rise increases over time (Sweet, Horton, Kopp, LeGrande, and Romanou 2017, pp. 342–345). A global analysis found that in many locations salt marsh elevation change did not keep pace with sea level rise in the last century and even less so in the past two decades, and concluded that the rate of sea level rise in most areas will overwhelm the capacity of salt marshes to persist (Crosby *et al.* 2016, entire). Under this analysis, based on RCP 4.5 and RCP 8.5 scenarios and assuming continuation of the average rate of current accretion, projected marsh drowning along the Atlantic coast at late century (2081–2100) ranges from about 75 to 90 percent (Crosby *et al.* 2016, p. 96, figure 2). The accretion balance (reported accretion rate minus local sea level rise) is negative for all analyzed sites in the Louisiana Gulf Coast and for all but one site in the mid-Atlantic area (figures 3c and 3d in Crosby *et al.* 2016, p. 97); both of these areas are part of the range of the eastern black rail.

Sea level rise will reduce the availability of suitable habitat for the eastern black rail and overwhelm habitat persistence. Sea level rise and its effects (*e.g.,* increased flooding and inundation, salt water intrusion) may affect the persistence of coastal or wetland plant species that provide habitat for the eastern black rail (Morris, Sundareshwar, Nietch, Kjerfve, and Cahoon 2002, p. 2876; Warren and Niering 1993, p. 96). Increased high tide flooding from sea level rise, as well as the increase in the intensity and frequency of flooding events, will further impact habitat and directly impact eastern black rails through nest destruction and egg loss (Sweet *et al.* 2017, pp. 35–44).

Land Management Practices (Fire Management, Haying and Mowing, and Grazing)

Fire Management

Fire suppression has been detrimental to habitats used by the eastern black rail by allowing encroachment of woody plants. Without fire or alternate surrogate methods of disturbing woody vegetation such as mowing, the amount of preferred habitat for eastern black rails is expected to decrease in some regions, such as coastal Texas (Grace *et al.* 2005, p. 39). Therefore, prescribed (controlled) fire can maintain habitat for this subspecies at the desired seral stage (intermediate stages of ecological succession).

While fire is needed for the maintenance of seral stages for multiple rail species, the timing and frequency of the burns, as well as the specific vegetation types targeted, can lead to undesirable effects on rail habitats in some cases (Eddleman *et al.* 1988, pp. 464–465). Burning salt marshes during drought or while the marshes are not flooded can result in root damage to valuable cover plants (Nyman and Chabreck 1995, p. 138). Controlled burning of peat, or accumulated organic litter, when marshes are dry has resulted in marsh conversion to open water due to the loss of peat soils. Variations in soil type supporting the same plant species may lead to differing recovery times post-burn, and therefore potentially unanticipated delays in the recovery of black rail habitat (McAtee, Scifres, and Drawe 1979, p. 375). Simply shifting the season of burn may alter plant species dominance and the associated structure available to the eastern black rail, as is seen with spring fire conversion of chairmaker's bulrush

(*Schoenoplectus americanus*) to salt meadow cordgrass (*Spartina patens*) (Nyman and Chabreck 1995, p. 135).

Prescribed fire that occurs during critical time periods for the subspecies (*i.e.,* mating, egg-laying and incubation, parental care, and flightless molt) leads to mortality of eggs, chicks, juveniles, and molting birds. Fall and winter burns are more likely to avoid reproductive season impacts (Nyman and Chabreck 1995, p. 138).

Fire pattern can have profound effects on birds. Controlled burns can result in indirect rail mortality, as avian predators attracted to smoke are able to capture rails escaping these fires (Grace *et al.* 2005, p. 6). Because eastern black rails typically prefer concealment rather than flight to escape threats, the birds may attempt to escape to areas not affected by fire, such as wetter areas or adjacent areas not under immediate threat. Ring, expansive, or rapidly moving fires are therefore not conducive to rail survival (Grace *et al.* 2005, p. 9; Legare, Hill, and Cole 1998, p. 114). On the other hand, controlled burns designed to include unburned patches of cover may positively influence eastern black rail survival. For example, burning 90 percent of a 2,400-ac marsh in Florida resulted in direct mortality of at least 39 eastern black rails, whereas a mosaic of unburned vegetation patches 0.1 to 2.0 ac in size facilitated eastern black rail survival during a 1,600-ac controlled burn (Legare, Hill, and Cole 1998, p. 114). Prescribed fires that include patches of unburned habitat scattered throughout provide escape cover for wildlife, including, but not limited to, eastern black rails (Legare, Hill, and Cole 1998, p. 114). Unburned strips of vegetation bordering the inside perimeters of burn units also are believed helpful as escape cover from both fire and avian predators (Grace *et al.* 2005, p. 35). Coastal marshes that are burned in staggered rotations to create a mosaic of different seral stages or are burned less frequently will continue to provide cover for marsh species, such as the eastern black rail (Block *et al.* 2016, p. 16).

Haying and Mowing

Haying and mowing are used throughout the range of the eastern black rail. Haying and mowing maintain grasslands by reducing woody vegetation encroachment. These practices can have detrimental impacts to wildlife when used too frequently or at the wrong time of year. For example, at Quivira NWR in Kansas, haying at a frequency of once or twice per year resulted in no occupancy of hayed habitats by eastern black rails during the following year (Kane 2011, pp. 31–33). Further, haying or mowing timed to avoid sensitive stages of the life cycle (nesting and molt period) would be less detrimental to eastern black rails (Kane 2011, p. 33). Mowing during the spring or summer will disrupt reproductive efforts of migratory birds. Eastern black rails reproduce from approximately mid-March through August, and mowing during this time period disturbs eastern black rail adults and can potentially crush eggs and chicks. As with fire, when mowing is alternated to allow areas of unmown habitat at all times, the site can continue to support cover-dependent wildlife.

Grazing

Cattle grazing occurs on public and private lands throughout the range of the eastern black rail. Because eastern black rails occupy drier areas in wetlands and require dense cover, these birds are believed to be more susceptible to grazing impacts than other rallids (Eddleman, Knopf, Meanley, Reid, and Zembal 1988, p. 463). Based on current knowledge of grazing and eastern black rail occupancy, the specific timing, duration, and intensity of grazing will result in varying impacts to the eastern black rail and its habitat. Light-to-moderate grazing may be compatible with eastern black rail occupancy under certain conditions, while intensive or heavy grazing is likely to have negative effects on eastern black rails and the quality of their habitat. It may benefit black rail habitat (or at least not be detrimental) when herbaceous plant production is stimulated (Allen-Diaz, Jackson, Bartolome, Tate, and Oates 2004, p. 147) and the necessary overhead cover is maintained. In Kansas, eastern black rails were documented in habitats receiving rotational grazing during the nesting season that preserved vegetation canopy cover (Kane 2011, pp. 33–34). Black rails occur in habitats receiving light-to-moderate grazing (*i.e.,* Kane 2011; Richmond, Tecklin, and Beissinger 2012; Tolliver 2017). These results suggest that such grazing is an option for providing disturbance, which may promote black rail occupancy. However, cattle grazing at high intensities may not favor black rail occupancy, as heavy grazing, or overgrazing, reduces the wetland vegetation canopy cover (Richmond, Chen, Risk, Tecklin, and Bessinger 2010, p. 92).

In addition to the loss of vegetation cover and height (Kirby, Fessin, and Clambey 1986, p. 496; Yeargan 2001, p. 87; Martin J. L. 2003, p. 22; Whyte and Cain 1981, p. 66), intensive grazing may also have direct negative effects on eastern black rails by livestock disturbing nesting birds or even trampling birds and nests (Eddleman, Knopf, Meanley, Reid, and Zembal 1988, p. 463). Heavy disturbance from grazing can also lead to a decline in eastern black rail habitat quality.

Stochastic Events (Extreme Weather Events)

Extreme weather effects, such as storms associated with frontal boundaries or tropical disturbances, can also directly affect eastern black rail survival and reproduction, and can result in direct mortality. Tropical storms and hurricanes are projected to increase in intensity and precipitation rates along the North Atlantic coast and Gulf Coast (Kossin *et al.* 2017, pp. 259–260; Bender *et al.* 2010, p. 458). The frequency of Category 4 and 5 tropical storms is predicted to increase despite an overall decrease in the number of disturbances (Bender *et al.* 2010, pp. 457–458). Storms of increased intensity, which will have stronger winds, higher storm surge, and increased flooding, cause significant damage to coastal habitats by destroying vegetation and food sources, as well as resulting in direct mortality of birds. For example, Hurricane Harvey flooded San Bernard NWR in Texas with storm surge, which was followed by runoff flooding from extreme rainfall. This saltmarsh, occupied by eastern black rails, was inundated for several weeks (Woodrow 2017, pers. comm.). Increases in storm frequency, coupled with sea level rise, may result in increased predation exposure of adults and juveniles if they emerge from their preferred habitat of dense vegetation (Takekawa *et al.* 2006, p. 184). Observations show predation upon California black rails during high tides when the birds had minimal vegetation cover in the flooded marsh (Evens and Page 1986, p. 108).

Weather extremes associated with climate change can have direct effects on the eastern black rail, leading to reduced survival of eggs, chicks, and adults. Indirect effects on the eastern black rail are likely to occur through a variety of means, including long-term degradation of both inland and coastal wetland habitats. Other indirect effects may include loss of forage base of wetland-dependent organisms. Warmer and drier conditions will most likely reduce overall habitat quality for the eastern black rail. Because eastern black rails tolerate a narrow range of water levels and variation within those water levels, drying as a result of extended droughts may result in habitat becoming unsuitable, either on a permanent or

temporary basis (Watts 2016, p. 120). Extreme drought or flooding conditions may also decrease bird fitness or reproductive success by reducing the availability of the invertebrate prey base (Davidson L. M. 1992a, p. 129; Hands, Drobney, and Ryan 1989, p. 5). Lower rates of successful reproduction and recruitment lead to further overall declines in population abundance and resiliency to withstand stochastic events such as extreme weather events. The vulnerability of the eastern black rail to the effects of climate change depends on the degree to which the subspecies is susceptible to, and unable to cope with, adverse environmental changes due to long-term weather trends and more extreme weather events.

Human Disturbance

Human disturbance can stress wildlife, resulting in changes in distribution, behavior, demography, and population size (Gill 2007, p. 10). Activities such as birding, birdwatching, and hiking, have been shown to disturb breeding and nesting birds. Disturbance may result in nest abandonment, increased predation, and decreased reproductive success, and in behavioral changes in non-breeding birds. Singing activity of male birds declines in sites that experience human intrusion, although the response varies among species and level of intrusion (Gutzwiller *et al.* 1994, p. 35). At the Tishomingo NWR in Oklahoma, recreational disturbances of migratory waterbirds accounted for 87 percent of all disturbances (followed by natural disturbances (10 percent) and unknown disturbances (3 percent)) (Schummer and Eddleman 2003, p. 789).

Many birders strive to add rare birds to their ''life list,'' a list of every bird species identified within a birder's lifetime. Locations of rare birds are often posted online on local birding forums or eBird, leading to an increased number of people visiting the location in an attempt to see or hear the bird. Due to its rarity, the eastern black rail is highly sought after by birders (Beans and Niles 2003, p. 96). Devoted birders may go out of their way to add an eastern black rail to their life list (McClain 2016, unpaginated). The efforts of birders to locate and identify rare birds, such as the eastern black rail, can have both positive and negative impacts on the bird and its habitat. Birders play an especially important role in contributing to citizen science efforts, such as the eBird online database, and have helped further our understanding of species' distributions and avian migration ecology in crucial ways (Sullivan *et al.* 2014, entire). Birders have provided valuable location information for eastern black rails that might have otherwise gone undetected and have made these records publicly available (see eBird's black rail account; eBird 2017, unpaginated).

While amateur and professional birding have made important contributions to our understanding of rare species like the eastern black rail, some birders may be more likely to pursue a sighting of a rare bird, as they may perceive the benefits of observing the bird to outweigh the impacts to the bird (Bireline 2005, pp. 55–57). As a result, methods may be employed to increase the likelihood of observing a rare bird, including the use of vocalized calls or audio recordings, as is the case for eastern black rails, or approaching birds in order to get a sighting (Beans and Niles 2003, p. 96; Bireline 2005, p. 55). These methods have the potential to disturb nesting birds or trample nests or eggs, and may lead to increased predation (Beans and Niles 2003, p. 96).

With the prevalence of smartphones, the use of playback calls has increased as recordings of birds are readily available on the internet, and birding websites and geographic site managers (State, Federal, or nongovernmental organizations) often provide guidance on the use of playback calls (Sibley 2001, unpaginated). The American Birding Association's Code of Birding Ethics encourages limited use of recordings and other methods of attracting birds, and recommends that birders never use such methods in heavily birded areas or for attracting any species that is endangered, threatened, of special concern, or rare in the local area (American Birding Association 2018, unpaginated). While most birders likely follow these ethical guidelines, using playback calls of eastern black rail vocalizations in attempts to elicit responses from the birds and potentially lure them into view is commonly done outside of formal eastern black rail surveys (see comments for eastern black rail detections on eBird; eBird 2017, unpaginated). Due to the rarity of the eastern black rail, a few cases of trespassing are known from people looking for the bird. Trespassing has been documented on private lands and in areas on public lands specifically closed to the public to protect nesting eastern black rails (Hand 2017, pers. comm.; Roth 2018, pers. comm.). Trespassing may not only disturb the bird, but can also result in trampling of the bird's habitat, as well as of eggs and nests. Some State resource managers and researchers have expressed concern that releasing locations of eastern black rail detections may increase human disturbance and harassment of the subspecies.

Synergistic Effects

It is likely that several of these stressors are acting synergistically or additively on the subspecies. The combination of multiple stressors may be more harmful than a single stressor acting alone. For the eastern black rail, a combination of stressors result in habitat loss, reduced survival, reduced productivity, and other negative impacts on the subspecies. Sea level rise, coupled with increased tidal flooding, results in the loss of the high marsh habitat required by the subspecies. Land management activities, such as prescribed burning, that occur in these habitats will further exacerbate impacts, especially if conducted during sensitive life-history periods (nesting, brood-rearing, or flightless molt). If these combined stressors occur too often within and across generations, they will limit the ability of the subspecies to maintain occupancy at habitat sites, which would become lost or unsuitable for the subspecies and limit its ability to colonize other previously occupied sites or new sites. For example, tidal marshes in Dorchester County, Maryland, in the Chesapeake Bay (specifically the areas of Blackwater NWR and Elliott Island) served as a former stronghold for the eastern black rail. These marshes have and continue to experience marsh erosion from sea level rise, prolonged flooding, a lack of a sufficient sediment supply, and land subsidence, as well as habitat destruction from nutria (now eradicated) and establishment of the invasive common reed (*Phragmites australis*). On Elliott Island, high decadal counts of eastern black rails have declined from the hundreds in the 1950s to the single digits in recent years (one eastern black rail detected from 2012–2015, and zero in 2016) (Watts 2016, p. 61).

Regulations and Conservation Efforts

Federal Protections

The Migratory Bird Treaty Act of 1918 (MBTA; 16 U.S.C. 703 *et seq.*) provides specific protection for the eastern black rail, which is a migratory bird under the statute. The MBTA makes it illegal, unless permitted by Federal regulation, ''by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause

to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, [or] any part, nest, or egg of any such bird . . . '' (16 U.S.C. 703(a)). Through issuance of permits for scientific collecting of migratory birds, the Service ensures that best practices are implemented for the careful capture and handling of eastern black rails during banding operations and other research activities. However, the December 22, 2017, Solicitor's Opinion, Opinion M–37050, concludes that consistent with the text, history, and purpose of the MBTA, the statute's prohibitions on pursuing, hunting, taking, capturing, killing, or attempting to do the same apply only to direct and affirmative actions that have as their purpose the taking or killing of migratory birds, their nests, or their eggs. Therefore, take of an eastern black rail, its chicks, or its eggs that is incidental to another lawful activity does not violate the MBTA. Furthermore, the MBTA does not address the major stressors affecting the eastern black rail, which include habitat alteration and sea level rise. Given that only intentional take is prohibited under the MBTA and the habitat-based stressors to the black rail are not regulated, this law does not provide sufficient substantive protections to the eastern black rail.

Section 404 of the Clean Water Act (CWA; 33 U.S.C. 1251 *et seq.*) and section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403) are intended to protect jurisdictional wetlands from excavation and filling activities. The U.S. Army Corps of Engineers, in conjunction with the U.S. Environmental Protection Agency, administers permits that require avoidance, minimization and compensation for projects affecting wetlands. Projects that cannot avoid impacts to wetlands must compensate for their impacts through a restoration enhancement or preservation action for the equivalent functional loss. Mitigation banks are often used, in which actions at a specific location compensate for impacts in a considerably wider service area. However, the wetland types affected are not always the same types that are restored or enhanced, and there is considerable uncertainty that current mitigation practices would support the presence of black rails.

State Protections

The black rail is listed as endangered under State law by seven States within the subspecies' range: Delaware, Illinois, Indiana, Maryland, New Jersey, New York, and Virginia. The species was formerly listed as endangered in Connecticut, but was considered extirpated during the last listing review based on extant data and was subsequently delisted. Protections are afforded to wildlife listed as either endangered or threatened by a State, but those protections vary by State. Although we have no information as to the effectiveness of these State regulations as they pertain to the conservation of the eastern black rail, one benefit of being State-listed is to bring heightened public awareness of the bird's existence.

In Delaware, the importation, transportation, possession, or sale of any endangered species or parts of endangered species is prohibited, except under license or permit (title 7 of the Delaware Code, sections 601–605). Illinois also prohibits the possession, take, transport, selling, and purchasing, or giving, of a listed species, and allows incidental taking only upon approval of a conservation plan (Illinois Compiled Statutes, chapter 520, sections 10/1–10/11). Indiana prohibits any form of possession of listed species, including taking, transporting, purchasing, or selling, except by permit (title 14 of the Indiana Code, article 22, chapter 34, sections 1–16 (I.C. 14–22–34–1 through 16)). Listed species may be removed, captured, or destroyed only if the species is causing property damage or is a danger to human health (I.C. 14–22–34–16). Similar prohibitions on the possession of a listed species in any form, except by permit or license, are in effect in Maryland (Code of Maryland, Natural Resources, section 10–2A–01–09), New Jersey (title 23 of the New Jersey Statutes, sections 2A–1 to 2A–15), New York (New York's Environmental Conservation Law, article 11, title 5, section 11–0535; title 6 of the New York Codes, Rules and Regulations, chapter I, part 182, sections 182.1–182.16), and Virginia (Code of Virginia, title 29.1, section 29.1, sections 563–570 (29.1–563–570)). Violations of these statutes typically are considered misdemeanor, generally resulting in fines or forfeiture of the species or parts of the species and the equipment used to take the species. Some States also have provisions for nongame wildlife and habitat preservation programs (*e.g.,* title 7 of the Delaware Code, sections 201–204; Code of Maryland, Natural Resources, section 1–705). For example, in Maryland, the State Chesapeake Bay and Endangered Species Fund (Code of Maryland, Natural Resources, section 1–705) provides funds to promote the conservation, propagation, and habitat protection of nongame, threatened, or endangered species.

Black rail is listed as a ''species in need of conservation'' in Kansas, which requires conservation measures to attempt to keep the species from becoming a State-listed endangered or threatened species (Kansas Department of Wildlife, Parks and Tourism 2018, unpaginated). Black rail also is listed as a species of ''special concern'' in North Carolina and requires monitoring (North Carolina Wildlife Resources Commission 2014, p. 6). The species is identified as a ''species of greatest conservation need'' in 19 State wildlife action plans as of 2015 (U.S. Geological Survey (USGS) 2017, unpaginated). However, no specific conservation measures for black rail are associated with these listings, and most are unlikely to address habitat alteration or sea level rise.

Other Conservation Efforts

The Atlantic Coast Joint Venture (ACJV) recently decided to focus efforts on coastal marsh habitat and adopted three flagship species, one being the eastern black rail, to direct conservation attention in this habitat. As part of this initiative, the ACJV Black Rail Working Group has drafted population goals for the eastern black rail and is developing habitat delivery options within the Atlantic Flyway. In addition, the ACJV is coordinating the development of a ''saltmarsh conservation business plan.'' The business plan will identify stressors to Atlantic and Gulf Coast tidal marshes and the efforts needed to conserve these habitats to maintain wildlife populations. The business plan is expected to be completed in late 2018.

The Gulf Coast Joint Venture (GCJV) has had the eastern black rail listed as a priority species since 2007 (Gulf Coast Joint Venture 2005). As a priority species, the black rail is provided consideration during the review of North American Wetland Conservation grant applications (Vermillion 2018, pers. comm.). Although detailed planning for the eastern black rail is not yet complete, the subspecies is considered in coastal marsh habitat delivery efforts discussed by GCJV Initiative Teams. Eastern black rails are believed to benefit from a plethora of coastal marsh habitat delivery efforts of GCJV partners, including projects authorized under the North American Wetland Conservation Act (16 U.S.C. 4401 *et seq.*), the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3951 *et seq.*), and the Service's Coastal Program, as well as management actions on State and Federal refuges and wildlife

management areas. Eastern black rails will benefit when projects conserve, enhance, or restore suitable wetland habitat and when management practices, such as the timing of prescribed burns and brush-clearing activities, are compatible with the life history of the subspecies.

In November 2016, the Texas Parks and Wildlife Department, in partnership with the Texas Comptroller's Office, initiated the Texas Black Rail Working Group (Shackelford 2018, pers. comm.). The main purpose of the group is to provide a forum for collaboration between researchers and stakeholders to share information about what is known about the species, identify information needs, and support conservation actions (see discussion under Critical Habitat, below).

Future Scenarios

As discussed above, we define viability as the ability of a species to sustain populations in the wild over time. To help address uncertainty associated with the degree and extent of potential future stressors and their impacts on the eastern black rail's needs, we applied the 3Rs using five plausible future scenarios. We devised these five scenarios by identifying information on the primary stressors anticipated to affect the subspecies into the future: habitat loss, sea level rise, groundwater loss, and incompatible land management practices. These scenarios represent a realistic range of plausible future scenarios for the eastern black rail.

We used the results of our occupancy model to create a dynamic site-occupancy, projection model that allowed us to explore future conditions under these scenarios for the Mid-Atlantic, Great Plains, Southeast Coastal Plain, and Southwest Coastal Plain analysis units. We did not project future scenarios for the New England, Appalachian, or Central Lowlands analysis units because, as discussed earlier in this document, we consider these analysis units to be currently effectively extirpated and do not anticipate that this will change in the future. Our projection model incorporated functions to account for changes in habitat condition (positive and negative) and habitat loss over time. The habitat loss function was a simple reduction in the total number of possible eastern black rail sites at each time step in the simulation by a randomly drawn percentage that was specified under different scenarios to represent habitat loss due to development or sea level rise. We used the change in ''developed'' land cover from the National Land Cover Database (NLCD 2011) to derive an annual rate of change in each region, and we used National Oceanic and Atmospheric Administration (NOAA) climate change and sea level rise projections to estimate probable coastal marsh habitat loss rates; storm surge was not modeled directly (Sweet *et al.*, 2017, p. entire; Parris, *et al.*, 2012, p. entire). In the Great Plains analysis unit, we used ground water loss rates, instead of sea level rise data, to represent permanent habitat loss in the region. The overall groundwater depletion rate was based on the average over 108 years (1900–2008) (Konikow L.F., 2013, p. entire).

Our five scenarios reflected differing levels of sea level rise and land management, and the combined effects of both. These future scenarios forecast site occupancy for the eastern black rail out to 2100, with time steps at 2043 and 2068 (25 and 50 years from present, respectively). Each scenario evaluates the response of the eastern black rail to changes in three primary risks we identified for the subspecies: habitat loss, sea level rise, and land management (grazing, fire, and haying). The trends of urban development and agricultural development remain the same, *i.e.,* follow the current trend, for all five scenarios. We ran 5,000 replicates of the model for each scenario. For a detailed discussion of the projection model methodology and the five scenarios, please refer to the SSA report (Service 2018, entire).

The model predicted declines in all analysis units across all five plausible future scenarios. Specifically, they predicted a high probability of complete extinction for all four analysis units under all five scenarios by 2068. The model predicted that, depending on the scenario, the Southeast Coastal Plain and Mid-Atlantic Coastal Plain analysis units would reach complete extinction between 35 and 50 years from the present; the Great Plains analysis unit would reach complete extinction between 15 to 25 years from the present; and the Southwest Coastal Plain analysis unit would reach complete extinction between 45 to 50 years from the present. Most predicted occupancy declines were driven by habitat loss rates that were input into each scenario. The model results exhibited little sensitivity to changes in the habitat quality components in the simulations for the range of values that we explored. For a detailed discussion of the model results for the five scenarios, please refer to the SSA report (Service 2018, entire).

Under our future scenarios, the Mid-Atlantic Coastal Plain, Great Plains, Southwest Coastal Plain, and Southeast Coastal Plain analysis units generally exhibited a consistent downward trend in the proportion of sites remaining occupied after the first approximately 25 years for all scenarios. Given that most of the predicted declines in eastern black rail occupancy were driven by habitat loss rates, and future projections of habitat loss are expected to continue and be exacerbated by sea level rise or groundwater loss, resiliency of the four remaining analysis units is expected to decline further. We expect all eastern black rail analysis units to have no resiliency by 2068, as all are likely to be extirpated by that time. We have no reason to expect the resiliency of eastern black rail outside the contiguous United States to improve in such a manner that will substantially contribute to its viability within the contiguous U.S. portion of the subspecies' range. Limited historical and current data, including nest records, indicate that resiliency outside of the contiguous United States will continue to be low into the future, or decline if habitat loss or other threats continue to impact these areas.

We evaluated representation by analyzing the latitudinal variability and habitat variability of the eastern black rail. Under our future scenarios, the Great Plains analysis unit is projected to be extinct within the next 15 to 25 years, which will result in the loss of that higher latitudinal representative unit for the subspecies. In addition, the three remaining analysis units (Mid-Atlantic Coastal Plain, Southwest Coastal Plain, and Southeast Coastal Plain) are predicted to decline and reach extinction within the next 50 years. Thus, the subspecies' representation will continue to decline.

The eastern black rail will have very limited redundancy in the future. The Great Plains analysis unit will likely be extirpated in 15 to 25 years, leading to further reduction in redundancy and resulting in only coastal populations of the eastern black rail remaining. Having only coastal analysis units remaining (and with even lower resiliency than at present) will further limit the ability of the eastern black rail to withstand catastrophic events, such flooding from hurricanes and tropical storms.

Please refer to the SSA report (Service 2018, entire) for a more detailed discussion of our evaluation of the biological status of the eastern black rail, the influences that may affect its continued existence, and the modeling efforts undertaken to further inform our analysis.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the eastern black rail. We propose to list the species as a threatened species throughout its range given the threats acting upon the subspecies currently and into the future.

When viewing historical occurrences on the State level compared to what is known of present distribution, the range contraction (from Massachusetts to New Jersey) and site abandonment (patchy coastal distribution) noted by Watts (2016, entire) appear to be occurring throughout the eastern United States. Over the past 10 to 20 years, reports indicate that populations have declined by 75 percent or greater. North of South Carolina, occupancy has declined by 64 percent and the number of birds detected has declined by 89 percent, equating to a 9.2 percent annual rate of decline (Watts 2016, p. 1). In relative terms, regional strongholds still exist for this subspecies; however, the best available scientific data suggest that the remaining strongholds support a relatively small total population size: an estimated 1,299 individuals on the upper Texas coast within protected areas prior to Hurricane Harvey, and an estimated 355 to 815 breeding pairs on the Atlantic Coast from New Jersey to Florida (including the Gulf Coast of Florida). There are no current population estimates from the interior States (Colorado, Kansas, or Oklahoma), although there are consistent populations of eastern black rails at Quivira NWR in Kansas and at least four sites in Colorado where the subspecies is encountered in the spring and summer. We have no information to indicate that the eastern black rail is present in large numbers in the Caribbean or Central America.

Based on our review of the available science, we identified the current threats to eastern black rail. Habitat loss and degradation (Factor A) as a result of sea level rise along the coast and ground and surface water withdrawals are having a negative impact on the eastern black rail now and will continue to impact this subspecies into the future. Incompatible land management techniques (Factor E), such as the application of prescribed fire, haying, mowing, and grazing, have negative impacts on the bird and its habitat, especially when conducted at sensitive times, such as the breeding season or the flightless molt period. Stochastic events (Factor E), such as flood events and hurricanes, can have significant impacts on populations and the subspecies' habitat. For example, the impacts of Hurricane Harvey on the Texas coastal populations of eastern black rail likely caused direct mortality as well as short-term habitat loss, as the hurricane occurred during the flightless molt period and resulted in the habitat being flooded for a long period of time. Human disturbance (Factor B) to the eastern black rail occurs throughout the bird's range and is driven by the bird's rarity and interest by the birding community to add this bird to individual life lists.

As we consider the future risk factors to the eastern black rail, we recognize that a complex interaction of factors have synergistic effects on the subspecies as a whole. In coastal areas, sea level rise, as well as increasing storm frequency and intensity and increased flood events (which are both associated with high tides and storms), will have both direct and indirect effects on the subspecies. Extensive patches of high marsh required for breeding are projected to be lost or converted to low marsh as a result of sea level rise. Demand for groundwater is increasing, which will reduce soil moisture and surface water, and thus negatively impact wetland habitat. We expect to see localized subsidence, which can occur when groundwater withdrawal rates are greater than the aquifer recharge rates. Also, warmer and drier conditions (associated with projected drought increases) will reduce overall habitat quality for the eastern black rail. Further, incompatible land management (such as fire application and grazing) will continue to negatively impact the subspecies throughout its range, especially if done during the breeding season or flightless molt period.

These stressors contribute to the subspecies' occupancy at sites and thus its population numbers. Some stressors have already resulted in permanent or long-term habitat loss, such the historical conversion of habitat to agriculture, while other factors may only affect sites temporarily, such as a fire or annually reduced precipitation. Even local but too frequent intermittent stressors, such as unusual high tides or prescribed fire, can cause reproductive failure or adult mortality, respectively, and thus reduce eastern black rail occupancy at a site and the ability of a site to allow for successful reproduction of individuals to recolonize available sites elsewhere. While these intermittent stressors allow for recolonization at sites, recolonization is based on productivity at other sites within a generational timescale for the subspecies. If these stressors, combined, occur too often within and across generations, they limit the ability of the subspecies to maintain occupancy at habitat sites and also limit its ability to colonize other previously occupied sites or new sites.

It is likely that several of these stressors are acting synergistically on the subspecies. Sea level changes, together with increasing peak tide events and higher peak flood events, wetland subsidence, past wetland filling and wetland draining, and incompatible land management (*e.g.,* prescribed fire and grazing), all limit the ability of the eastern black rail to persist in place or to shift to newly lightly flooded, ''just-right'' areas as existing habitats are impacted. These interacting threats all conspire to limit the ability of this subspecies to maintain and expand populations now and in the foreseeable future.

Our estimates of future resiliency, redundancy, and representation for the eastern black rail are further reduced from the current condition, consistent with this analysis of future threats. Currently, three analysis units are effectively extirpated, and four analysis units that continue to support populations of the eastern black rail all have low levels of resiliency. Given the projected future decreases in resiliency for these four analysis units, the eastern black rail will become more vulnerable to extirpation from ongoing threats, consequently resulting in concurrent losses in representation and redundancy. The range of plausible future scenarios of the eastern black rail all predict extirpation for all four analysis units by mid-century (2068) with the Great Plain analysis unit blinking out within 15 to 25 years (depending on the scenario). In short, our analysis of the subspecies' current and future conditions show that the population and habitat factors used to determine the resiliency, representation, and redundancy for the subspecies will continue to decline so that it is likely to become in danger of extinction throughout its range within the foreseeable future.

The term foreseeable future extends only so far as the Services can reasonably rely on predictions about the future in making determinations about the future conservation status of the species. Those predictions can be in the form of extrapolation of population or threat trends, analysis of how threats will affect the status of the species, or assessment of future events that will have a significant new impact on the species. The foreseeable future described here, uses the best available data and takes into account considerations such as the species' life

history characteristics, threat projection timeframes, and environmental variability, which may affect the reliability of projections. We also considered the time frames applicable to the relevant threats and to the species' likely responses to those threats in view of its life history characteristics. The foreseeable future for a particular status determination extends only so far as predictions about the future are reliable.

In cases where the available data allow for quantitative modelling or projections, the time horizon for such analyses does not necessarily dictate what constitutes the ''foreseeable future'' or set the specific threshold for determining when a species may be in danger of extinction. Rather, the foreseeable future can only extend as far as the Service can reasonably explain reliance on the available data to formulate a reliable prediction and avoid reliance on assumption, speculation, or preconception. Regardless of the type of data available underlying the Service's analysis, the key to any analysis is a clear articulation of the facts, the rationale, and conclusions regarding foreseeability.

We identify the foreseeable future for the eastern black rail to be 25 to 50 years from the present. We consider 25 to 50 years ''foreseeable'' in this case because this timeframe includes projections from our modeling efforts and takes into account the threats acting upon the eastern black rail and its habitat and how we consider the eastern black rail will respond to these threats in the future. For all five plausible scenarios, all analysis units exhibited a consistent downward trend in the proportion of sites remaining occupied after the first 25 years (by 2043), with extirpation for all analysis units by 2068. The Great Plains analysis unit is predicted to be extirpated by 2043. Given that future projections of habitat loss are expected to continue and be exacerbated by sea level rise and tidal flooding, resiliency of the four remaining analysis units is expected to decline further over the next 25 to 50 years.

Under the Act, the term ''species'' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species that ''is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We find that the eastern black rail is likely to become endangered throughout all of its range within the foreseeable future. The eastern black rail meets the definition of threatened because it is facing threats across its range that have led to reduced resiliency, redundancy, and representation. Although the eastern black rail is not in danger of extinction throughout its range at present, we expect the subspecies to continue to decline into the future. We did not find that it is currently in danger of extinction throughout its range. Although the eastern black rail has experienced reductions in its numbers and seen a range contraction, this subspecies is still relatively widespread. It continues to maintain a level of representation in four analysis units, which demonstrates continued latitudinal variability across its range. These four analysis units are spread throughout most of the subspecies' range, providing for some level of redundancy. Although the resiliency in the four currently occupied analysis units is low, Florida and Texas remain strongholds for the subspecies in the Southeast and Southwest. The current condition of the subspecies still provides for resiliency, redundancy, and representation such that it is not at risk of extinction now throughout its range.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that the eastern black rail is likely to become an endangered species within the foreseeable future throughout its range, we find it unnecessary to proceed to an evaluation of potentially significant portions of the range. Where the best available information allows the Services to determine a status for the species rangewide, that determination should be given conclusive weight because a rangewide determination of status more accurately reflects the species' degree of imperilment and better promotes the purposes of the statute. Under this reading, we should first consider whether listing is appropriate based on a rangewide analysis and proceed to conduct a ''significant portion of its range'' analysis if, and only if, a species does not qualify for listing as either endangered or threatened according to the ''all'' language. We note that the court in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), did not address this issue, and our conclusion is therefore consistent with the opinion in that case.

Therefore, on the basis of the best available scientific and commercial information, we propose to list the eastern black rail as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

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

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from the Lists of Endangered and Threatened Wildlife and Plants (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams

(composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*http://www.fws.gov/endangered*), or from our South Carolina Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the U.S. States and territories of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Virginia, U.S. Virgin Islands, and West Virginia would be eligible for Federal funds to implement management actions that promote the protection or recovery of the eastern black rail. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although the eastern black rail is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this subspecies. Additionally, we invite you to submit any new information on this subspecies whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the eastern black rail's habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the U.S. Fish and Wildlife Service and National Park Service; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

Provisions of Section 4(d) of the Act

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. Under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. The Secretary also has the discretion to prohibit, by regulation with respect to any threatened species of fish or wildlife, any act prohibited under section 9(a)(1) of the Act.

The regulations at 50 CFR 17.31(a) provide that the prohibitions set forth for endangered wildlife at 50 CFR 17.21 also apply to threatened wildlife, except as discussed below. The regulations at 50 CFR 17.21, which codify the prohibitions in section 9(a)(1) of the Act, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce endangered wildlife. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. To the extent the section 9(a)(1) prohibitions apply only to endangered species, this proposed rule would apply those same prohibitions to the eastern black rail.

Instead of generally applying the same prohibitions to threatened wildlife that apply to endangered wildlife, in accordance with section 4(d) of the Act, the Service may instead develop a protective regulation (''4(d) rule'') that is specific to the conservation needs of any threatened species. Such a regulation would contain all of the protections applicable to that species (50 CFR 17.31(c)); this may include some of the general prohibitions and exceptions set forth at 50 CFR 17.31 and 17.32, but would also include species-specific protections that may be more or less restrictive than the general provisions at 50 CFR 17.31.

For the eastern black rail, the Service has developed a proposed 4(d) rule that is tailored to the specific threats and conservation needs of this subspecies. The proposed 4(d) rule contains specific prohibitions and exceptions to those prohibitions. It would not remove or alter in any way the consultation requirements under section 7 of the Act.

Proposed 4(d) Rule for the Eastern Black Rail

Under this proposed 4(d) rule, the following activities would be prohibited unless otherwise noted:

Fire Management Activities

Prescribed fire can be used to re-initiate succession and seral sequencing on public and private lands, which is important to ensure suitable habitat for the eastern black rail. However, the application of prescribed fire should avoid burning during the nesting, brood rearing, and flightless molt periods (mid-March through September 30) where eastern black rails are present. Prescribed fire that takes place during critical time periods for the subspecies (*i.e.,* mating, egg-laying, and incubation; parental care; and flightless molt) will lead to mortality of eggs, chicks, juveniles, and molting birds. We recognize that there is latitudinal variability of these life-history events across the range of the eastern black rail. For example, in Texas, eastern black rails begin to nest in March, whereas in

Kansas and Colorado, nesting begins around May 1. Therefore, the timing of prohibitions would coincide with when the eastern black rail is using the habitat for breeding and nesting, and with the flightless molt period.

We realize that prohibiting prescribed fire during the months these activities take place may conflict with land management goals, for example, the use of prescribed fire to control shrub or tree encroachment and improve habitat suitability for species such as the eastern black rail. However, prescribed fire during this period will reduce survival of eggs, chicks, juveniles, and adults and will reduce recruitment of individuals into the next generation. Opportunities to reach management goals still remain available during a significant period of the year.

For prescribed fires outside of the nesting, brood rearing, and flightless molt period, best management practices (BMPs) can minimize the take of eastern black rails. Therefore, we propose to allow prescribed burns that follow identified BMPs; this would not adversely affect the likelihood of survival of the eastern black rail in occupied areas that are burned. BMPs include:

- The application of prescribed fire should avoid perimeter fires, ring fires, or fires that have long, unbroken boundaries that prevent species dependent on dense cover from escaping a fire.
- Prescribed fire should be employed to move slowly across a tract. Fast fires can cause significant mortality for eastern black rails.
- Prescribed fire should be applied in a patchy manner or with small patches to allow eastern black rails a place of refuge. Patches can be small but numerous enough to support multiple eastern black rails.

This provision of the proposed 4(d) rule for fire management activities would promote conservation of the eastern black rail by encouraging continued management of the landscape in ways that meet management needs while simultaneously ensuring the continued survival of the eastern black rail and providing suitable habitat.

Haying, Mowing, and Other Mechanical Treatment Activities

Haying and mowing can maintain grasslands by reducing woody vegetation encroachment and also for the production of forage for livestock. Mechanical treatment activities include disking (using a disk harrow or other tool) and brush clearing (using a variety of tools that may be attached to a tractor or a stand-alone device). While these practices are used to enhance eastern black rail habitat, when done at the wrong time, they can impact recruitment and survival.

Haying, mowing, and mechanical treatment activities in emergent wetlands should be avoided during the nesting, brood rearing, and flightless molt periods (mid-March through September 30) where eastern black rail are present. We define emergent wetlands as areas where ''emergent plants—*i.e.,* erect, rooted, herbaceous hydrophytes, excluding mosses and lichens—are the tallest life form with at least 30 percent areal coverage. This vegetation is present for most of the growing season in most years. These wetlands are usually dominated by perennial plants'' (Federal Geographic Data Committee 2013, p. 33). For more information on emergent wetlands, please visit the Service's National Wetlands Inventory website: *https://www.fws.gov/wetlands/.*

Haying, mowing, and mechanical treatment activities in emergent wetlands that take place during critical time periods for the subspecies (*i.e.,* mating, egg-laying, and incubation; parental care; and flightless molt) will lead to disturbance of nesting birds; destruction of nests; and mortality of eggs, chicks, juveniles, and adults. As discussed above, we recognize that there is latitudinal variability of these life-history events across the range of the eastern black rail. Therefore, the timing of prohibitions would coincide with when the eastern black rail is using the habitat for breeding and nesting, and with the flightless molt period.

We recognize mowing or mechanical treatment activities may need to be used for maintenance requirements to ensure safety and operational needs for existing infrastructure, and understand that these maintenance activities may need to take place during the nesting, brooding, or post-breeding molt period. These include maintenance of existing fire breaks, roads, transmission corridors rights-of-way, and fence lines. These activities are an exception to this prohibition.

We do not propose to prohibit mowing, haying, or mechanical treat activities outside of the nesting, brood rearing, and flightless molt time periods. However, we encourage land managers to employ voluntary BMPs outside of these time periods. BMPs for haying, mowing, and mechanical treatment activities include avoidance of emergent wetlands; providing untreated (*i.e.,* unmown or avoided) areas that provide refugia for species dependent on dense cover, such as the eastern black rail; and using temporary markers to identify where birds occur, for example wetland areas, so that these areas may be avoided.

This provision of the proposed 4(d) rule for haying, mowing, and mechanical treatment activities in emergent wetlands would promote conservation of the eastern black rail by prohibiting activities that would reduce survival and limit recruitment during the period when breeding and flightless molt takes place.

Grazing Activities

Based on current knowledge of grazing and eastern black rail occupancy, the specific timing, duration, and intensity of grazing will result in varying impacts to the eastern black rail and its habitat. Light-to-moderate grazing may be compatible with eastern black rail occupancy under certain conditions, while intensive or heavy grazing is likely to have negative effects on eastern black rails and the quality of their habitat. Grazing densities should allow for the maintenance of the dense vegetative cover required by the eastern black rail.

Intensive or heavy grazing should be avoided during the nesting, brood rearing, and flightless molt periods (mid-March through September 30) in emergent wetlands where eastern black rail are present. Intensive or heavy grazing that takes place during critical time periods for the subspecies (*i.e.,* mating, egg-laying and incubation; parental care; and flightless molt) will lead to disturbance of nesting birds, as well as possible destruction of nests and mortality of eggs and chicks due to trampling. As discussed above, we recognize that there is latitudinal variability of these life-history events across the range of the eastern black rail. Therefore, the timing of prohibitions would coincide with when the eastern black rail is using the habitat for breeding or nesting, and with the flightless molt period. We propose to limit this prohibition to public lands, given our knowledge of where grazing activities and the presence of eastern black rails overlap.

Although we are not proposing to prohibit year-round light to moderate grazing, or intensive grazing outside of the nesting season, we do recommend that land managers follow voluntary BMPs to provide for additional conservation of the eastern black rail and its habitat. BMPs to avoid negative impacts to the eastern black rail from grazing activities include the use of fences to exclude grazing from emergent wetland areas during the breeding and flightless molt periods, and rotational grazing practices so that a mosaic

pattern of cover density is present across fenced tracts of land.

This provision of the proposed 4(d) rule for grazing activities would promote conservation of the eastern black rail by encouraging land managers to continue managing the landscape in ways that meet their needs while simultaneously providing suitable habitat for the eastern black rail.

Other Forms of Take

Protecting the eastern black rail from direct forms of take, such as physical injury or killing, whether incidental or intentional, will help preserve and recover the remaining populations of the subspecies. Protecting the eastern black rail from indirect forms of take, such as harm that results from habitat degradation, will likewise help preserve the subspecies' populations and also decrease synergistic, negative effects from other stressors impeding recovery of the subspecies. We propose to extend the Act's section 9(a)(1)(A), 9(a)(1)(D), 9(a)(1)(E), and 9(a)(1)(F) prohibitions to the eastern black rail throughout its range.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features:

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined at section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Increased Degree of Threat to the Eastern Black Rail

Designation of critical habitat requires the publication of maps and a narrative description of specific critical habitat areas in the **Federal Register**. We are concerned that designation of critical habitat would more widely announce the exact location of eastern black rails (and highly suitable habitat) to overzealous birders and further facilitate disturbance. As discussed above, the eastern black rail is highly sought after by the birding community due to its rarity. We anticipate that listing the eastern black rail under the Act will further interest in this bird and increase the likelihood that eastern black rails will be sought out for birders' ''life lists'' and general birding trips.

Eastern black rails are unique in they are extremely secretive; they walk or run under dense vegetation and are rarely seen in flight. They are generally detected by employing playback calls. As the eastern black rail is difficult to see, birders generally record an eastern black rail on their life list by documenting the bird's call. Because the eastern black rail is highly sought after, birders will play calls repeatedly to garner a response and sometimes to lure a bird in an attempt to see the individual. The constant playing of a call to the bird for days, if not weeks, at a time is a form of harassment to the bird. The use of playback calls has been documented to alter the behavior of eastern black rails, resulting in a threats display that includes spreading the wings and charging the tape recorder (Taylor and Van Perlo 1998, p. 223; Eddleman, Flores, and Legare 1994, unpaginated). The American Birding Association Code of Birding Ethics

states that birders should limit the use of recordings and other methods of attracting birds, and never use such methods for attracting listed or rare species; however, the singular method used to detect eastern black rails is by playback calls (as opposed to passive listening) and a listing designation is unlikely to abate this disturbance.

The eastern black rail is highly vulnerable to disturbance, especially during the brooding and nesting season. Birders attempting to see or hear the bird by using vocalized calls or recordings has the potential to disturb nesting birds and to trample nests or eggs, and may lead to increased predation (Beans and Niles 2003, p. 96). We believe that the threat of disturbance will be exacerbated by the publication of maps and descriptions outlining the specific locations of this secretive bird in the **Federal Register** and local newspapers.

Identification and publication of critical habitat may also increase the likelihood of inadvertent or purposeful habitat destruction. As discussed above, trespassing has been documented on private lands and in areas on public lands specifically closed to the public to protect nesting eastern black rails (Roth 2018, pers. comm.; Hand 2017, pers. comm.). Trespassing may not only disturb the bird, but can also result in trampling of the bird's habitat, as well as eggs and nests. State resource managers and researchers are concerned that releasing locations of eastern black rail detections may increase human disturbance and harassment to the subspecies. Trespassing on private land is also a concern, as it likely results in increased harassment to the rails and to the private landowners who are providing habitat to the rails (Hand 2017, pers. comm.). We recognize with the advent of eBird that locations of rare birds, including the eastern black rail, are widely distributed and readily available if those location data are posted to this website. Given the eastern black rail's rarity and near grail-like status in the birding community, when a location has been published on eBird, birders often flock to the site in large numbers in an attempt to see or hear the bird. For example, in June 2010, an eastern black rail was detected at the Parker River NWR in Massachusetts, and the detection was posted on eBird (eBird 2018, unpaginated). On June 2, a birder posted on eBird that he assembled with a group of 34 birders to hear the one or two eastern black rails at the site (eBird 2018, unpaginated). On June 4, another birder posted that he waited more than 2 hours with about 50 other individuals to hear the eastern black rail call (eBird 2018, unpaginated). On June 8, a birder noted that about 30 people heard the eastern black rail (eBird 2018, unpaginated). The 2010 record is the only eastern black rail occurrence recorded in eBird for this specific coordinate location and demonstrates the great interest an eastern black rail generates among the birding community.

To minimize harmful disturbances, eBird identifies a list of birds it considers ''sensitive species.'' This list is developed in collaboration with partners to identify birds for which demonstrable harm, such as targeted capture, targeted hunting, or targeted disturbance of nests or individual birds from birders or photographers, may occur from publicly posting location records. In most cases, these birds identified as ''sensitive species'' are species that have been listed by a local entity or that appear on the International Union for Conservation of Nature (IUCN) Red List. These birds have a customized display in eBird that omits checklist details, such as date and location, among other restrictions. While researchers have access to this information, the general public is not able to view more specific information on the record. Although the eastern black rail is not currently on eBird's ''sensitive species'' list, given the increased risk of harassment to the eastern black rail from posting location data, we will request that it be added if we list the subspecies.

We acknowledge that general location information is provided within this proposed rule, and more-specific location information can be found through other sources. However, we maintain that designation of critical habitat would more widely publicize the potential locations of the eastern black rail and its habitat, and lead to an increased threat of disturbance to the bird from birders. We believe that identification and advertisement of critical habitat may exacerbate the threat of disturbance, thus making sensitive areas more vulnerable to purposeful harmful impacts from humans. Certain life stages, including eggs, chicks, nesting/brooding adults, and adults experiencing the flightless molt period, are particularly vulnerable. Identification and publication of detailed critical habitat information and maps would likely increase exposure of sensitive habitats and increase the likelihood and severity of threats to both the subspecies and its habitat. Identification and publication of critical habitat may lead to increased attention to the subspecies, or increased attempts to observe or hear it.

Benefits to the Subspecies From Critical Habitat Designation

Under our regulations at 50 CFR 424.12(a)(1)(i), this finding that designating critical habitat is likely to increase the threat of disturbance to the subspecies provides a sufficient basis for making a not-prudent finding. As demonstrated by the use of the word ''or'' in 50 CFR 424(a) between subsections (1)(i) and (1)(ii), the regulations do not require that we also determine that designating critical habitat would not be beneficial to the subspecies.

Summary

Based on the above discussion, we preliminarily conclude that the designation of critical habitat is not prudent, in accordance with 50 CFR 424.12(a)(1), because the eastern black rail and its habitat face a threat by overzealous birders, and designation can reasonably be expected to increase the degree of these threats to the subspecies and its habitat by making location information more readily available. However, we seek public comment on threats of taking or other human activity, including the impacts of birders to the eastern black rail and its habitat, and the extent to which designation might increase those threats.

Required Determinations

Clarity of the Rule

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

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

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

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. Although we have no records of the eastern black rail occurring on tribal lands, the range of the eastern black rail overlaps with tribal lands.

References Cited

A complete list of references cited in this proposed rule is available on the internet at *http://www.regulations.gov* and upon request from the South Carolina Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Species Assessment Team, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. Amend § 17.11(h) by adding an entry for ''Rail, eastern black'' to the List of Endangered and Threatened Wildlife in alphabetical order under BIRDS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
BIRDS				
*	*	*	*	*
Rail, eastern black	*Laterallus jamaicensis jamaicensis.*	Wherever found	T	[**Federal Register** citation when published as a final rule]; 50 CFR 17.41(f).[4d]
*	*	*	*	*

■ 3. Amend § 17.41 by adding a paragraph (f) to read as follows:

§ 17.41 Special rules—birds.

* * * * *

(f) Eastern black rail (*Laterallus jamaicensis jamaicensis*). (1) *Prohibitions.* The following activities are prohibited:

(i) Purposeful take of an eastern black rail, including capture, handling, or other activities.

(ii) Prescribed burn activities that result in the incidental take of eastern black rails when the activity occurs:

(A) During the nesting, brooding, or post-breeding flightless molt period; or

(B) Outside of the nesting, brooding, or post-breeding flightless molt period, unless best management practices that minimize effects of the prescribed burn on the eastern black rail are employed. Examples of best management practices include employing slow burn fires, limiting the block of land burned to ensure suitable dense cover habitat remains for the eastern black rail, employing patch or refugia techniques to allow for eastern black rails to survive or escape fire, and avoiding the use of ring fires or perimeter fires.

(iii) Mowing, haying, and mechanical treatment activities in emergent wetlands that result in the incidental take of eastern black rails when the activity occurs during the nesting, brooding, or post-breeding flightless molt period, except in accordance with paragraph (f)(2)(iii) of this section.

(iv) Grazing activities on public lands that result in the incidental take of eastern black rails when the activity:

(A) Occurs during the nesting, brooding, or post-breeding flightless molt period;

(B) Involves intensive or high-density grazing that occurs on suitable occupied eastern black rail habitat; and

(C) Does not support the maintenance of appropriate dense vegetation cover for the eastern black rail.

(v) Possession and other acts with unlawfully taken eastern black rails. It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any eastern black rail that was taken in violation of section 9(a)(1)(B) and 9(a)(1)(C) of the Act or State laws.

(vi) Import and export of the eastern black rail.

(vii) Delivery, receipt, carry for transport, or shipment in interstate or

foreign commerce, by any means whatsoever, and in the course of a commercial activity, of any eastern black rail.

(viii) Sale or offer for sale in interstate or foreign commerce of any eastern black rail.

(2) *Exceptions from prohibitions.* (i) All of the provisions of § 17.32 apply to the eastern black rail.

(ii) Any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency that is operating a conservation program for the eastern black rail pursuant to the terms of a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take eastern black rails.

(iii) Mowing or mechanical treatment activities in emergent wetlands that:

(A) Occur during the nesting, brooding, or post-breeding flightless molt period; and

(B) Are maintenance requirements to ensure safety and operational needs for existing infrastructure. Existing infrastructure may include existing fire breaks, roads, transmission corridor rights-of-way, and fence lines.

* * * * *

Dated: September 20, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–21799 Filed 10–5–18; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 83, No. 195

Tuesday, October 9, 2018

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

October 3, 2018.

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 (1) 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; (2) the accuracy of the agency's estimate of burden 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 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 November 8, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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.

Food and Nutrition Service

Title: National Hunger Clearinghouse Database Form FNS–543.

OMB Control Number: 0584–0474.

Summary of Collection: The National Hunger Clearinghouse collects, develops and distributes information and resources to help build the capacity of emergency food providers to address the immediate needs of struggling families and individuals while promoting self-reliance and access to healthy food. The Clearinghouse includes the National Hunger Hotline, which refers people in need anywhere in the U.S. to food pantries, soup kitchen, government programs and model grassroots organizations. Section 26 of the National School Lunch Act, which was added to the Act by Section 123 of Public Law 103–448 on November 2, 1994, mandated that the Food and Nutrition Service (FNS) enter into a contract with a non governmental organization to develop and maintain a national information clearinghouse of grassroots organizations working on hunger, food, nutrition, and other agricultural issues, including food recovery, food assistance and self-help activities to aid individuals to become self-reliant and other activities that empower low-income individuals. FNS will collect information using National Hunger Clearinghouse Database Form FNS–543.

Need and Use of the Information: FNS will collect information to provide a resource for groups that assist low-income individuals or communities regarding nutrition assistance program or other assistance. The information aids FNS to fight hunger and improve nutrition by increasing participation in the FNS nutrition programs through the development, coordination, and evaluation of strategic initiatives, partnership, and outreach activities.

Description of Respondents: Business-not-for-profit and Business for-profit.

Number of Respondents: 600.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 50.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–21866 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 3, 2018.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) 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; (2) the accuracy of the agency's estimate of burden 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 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: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by November 8, 2018. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

National Agricultural Statistics Service

Title: Agricultural Labor Survey.

OMB Control Number: 0535–0109.

Summary of Collection: The 1938 Agricultural Adjustment Act, as amended, requires USDA to compute parity prices of farm products. This computation uses an index of Prices Paid by Farmers which in turn is composed of five indexes, one of which is an index of wage rates. These estimates measure actual agricultural wage rates and the year-to-year changes. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. Agricultural labor statistics are an integral part of National Agricultural Statistics Service (NASS) primary function of collecting, processing, and disseminating current state, regional, and national agricultural statistics. Comprehensive and reliable agricultural labor data are also needed by the Department of Labor in the administration of the ''H–2A'' program (non-immigrants who enter the United States for temporary or seasonal agricultural labor) and for setting ''Adverse Effect Wage Rates.'' The Agricultural Labor Survey is the only timely and reliable source of information on the size of the farm worker population. NASS will collect information using a survey.

In this substantive change renewal, NASS has been directed by the USDA to expand the survey to add greater detail to the summarized data. This will involve an increase in the currently approved sample size to collect more data on agricultural labor that is performed under each of the standard occupational classification (SOC) codes. In addition NASS will resume collecting data on a quarterly basis rather than biannual basis which collected the quarterly data. This should help to reduce the potential for any memory bias that may have occurred previously. This change is expected to take place in January 2019, contingent on the passage of the 2019 FY Federal Budget. If there is a delay in the passage of the Federal Budget the changes will take place in July 2019. In addition the biannual survey will be conducted in April 2019 and the data for the January and April quarters will be collected as they are currently approved. After that the data collections will collect data on a quarterly basis. Response to these data collections by the sampled farm and ranch operators is on a voluntary basis.

Need and Use of the Information: NASS will collect information on wage rate estimates and the year-to-year changes in these rates and how changes in wage rates help measure the changes in costs of production of major farm commodities. NASS will also collect Standard Occupational Classifications data information for field workers, livestock workers, supervisors and other workers to measure the availability of national farm workers. The information is used by farm worker organizations to help set wage rates and negotiate labor contracts as well as determine the need for additional workers and to help ensure federal assistance for farm worker assistance programs supported with government funding.

Description of Respondents: Farms.

Number of Respondents: 40,050.

Frequency of Responses: Reporting: Quarterly; Annually.

Total Burden Hours: 44,901.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–21828 Filed 10–5–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0042]

National Advisory Committee on Meat and Poultry Inspection; Nominations for Membership

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice soliciting nominations for membership.

SUMMARY: The U.S. Department of Agriculture (USDA) is soliciting nominations for membership for the National Advisory Committee on Meat and Poultry Inspection (NACMPI). The full Committee consists of 20 members, and each person selected is expected to serve a 2-year term. There are 15 available positions.

DATES: Nominations, including a cover letter to the Secretary, the nominee's typed resume or curriculum vitae, and a completed USDA Advisory Committee Membership Background Information form AD–755, must be received by November 8, 2018.

FOR FURTHER INFORMATION CONTACT: Valeria Green, Deputy Director, Risk, Innovations, and Management Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Telephone: (301) 504–0846, Email: *valeria.green@fsis.usda.gov,* regarding specific questions about the Committee or this solicitation. General information about the Committee can also be found at: *http://www.fsis.usda.gov/nacmpi.*

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2), USDA is seeking nominees for membership on the National Advisory Committee on Meat and Poultry Inspection (NACMPI). The Committee provides advice and recommendations to the Secretary on meat and poultry inspection programs (*see* 21 U.S.C. 607(c), 624, 645, 661(a)(3), and 661(c)) and 21 U.S.C. 454(a)(3), 454(c), 457(b), and 460(e)). Nominations for membership are being sought from persons representing industry; academia; State and local government officials; public health organizations; and consumers and consumer organizations. NACMPI is seeking members with knowledge and interest in meat and poultry food safety and other FSIS policies. Appointments to the Committee will be made by the Secretary of Agriculture.

To ensure that recommendations of the Committee consider the needs of the diverse groups served by the Department, membership will include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. It is anticipated that the Committee will meet at least once annually.

Please note that federally registered lobbyists cannot be considered for USDA advisory committee membership. Members can only serve on one advisory committee at a time. All nominees will undergo a USDA background check.

How To Apply

To receive consideration for service on the NACMPI, a nominee must submit a resume and the USDA Advisory Committee Membership Background Information form AD–755. The resume or curriculum vitae must be limited to five one-sided pages and should include nominee's educational background and expertise. For submissions received that are more than five one-sided pages in length, only the first five pages will be reviewed. The USDA Advisory Committee Membership Background Information form AD–755 is available online at: *http://www.fsis.usda.gov/wps/portal/fsis/forms.* The AD–755 will only be considered if it is complete.

Nomination packages should be accompanied by a resume or curriculum vitae and AD–755 form and can be sent by mail to: Valeria Green, Deputy Director, Risk, Innovations, and Management Staff, Food Safety and Inspection Service, U.S. Department of

Agriculture; 1400 Independence Avenue SW, Mail Stop 3783, Patriots Plaza III, Room 9–267A, Washington, DC 20250. Attention: National Advisory Committee on Meat and Poultry Inspection.

Regarding Nominees Who Are Selected

All members who are associated with colleges and universities will be designated as Special Government Employees (SGE) and must complete the Office of Government (OGE)450 Confidential Financial Disclosure Report electronically through the USDA online system before rendering any advice or before their first meeting. SGEs are required to update financial forms yearly. An invitation to fill out the 450 form will be sent via email before the NACMPI meeting.

All members will be reviewed for conflict of interest pursuant to 18 U.S.C. 208 in relation to specific NACMPI work changes. Advisory Committee members serve a two-year term, renewable for two consecutive terms.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination, any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at: *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–21859 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0038]

Notice of Request To Renew an Approved Information Collection (Records To Be Kept by Official Establishments and Retail Stores That Grind Raw Beef Products)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding records to be kept by official establishments and retail stores that grind raw beef products. The approval for this information collection will expire on February 28, 2019. FSIS is making no changes to the approved collection.

DATES: Submit comments on or before December 10, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0038. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Records to be Kept by Official Establishments and Retail Stores that Grind Raw Beef Products.

OMB Control Number: 0583–0165.

Expiration Date: 02/28/2019.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS, by delegation (7 CFR 2.18, 2.53), exercises the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a renewal of the information collection regarding records to be kept by official establishments and retail stores that grind raw beef

products. The approval for this information collection will expire on February 28, 2019. FSIS is making no changes to the approved collection. All official establishments and retail stores that grind raw beef products for sale in commerce, including products ground at a customer's request, are required to maintain certain records. The required records include the following information:

(A) The establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef product;

(B) All supplier lot numbers and production dates;

(C) The names of the supplied materials, including beef components and any materials carried over from one production lot to the next;

(D) The date and time each lot of raw ground beef product is produced; and

(E) The date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized.

Estimate of Burden: FSIS estimates that it would take a maximum of 50.33 hours per respondent annually.

Respondents: Official establishments and retail stores that grind raw beef products.

Estimated Number of Respondents: 65,911.

Estimated Maximum Annual Number of Responses per Respondent: 1,878.

Estimated Maximum Total Annual Recordkeeping Burden: 3,317,493 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–21857 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0037]

Notice of Request To Renew an Approved Information Collection (Laboratories)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding laboratories. The approval for this information collection will expire on February 28, 2019. FSIS is making no changes to the approved collection.

DATES: Submit comments on or before December 10, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the

Agency name and docket number FSIS–2018–0037. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Laboratories.

OMB Control Number: 0583–0158.

Expiration Date: 02/28/2019.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS, by delegation (7 CFR 2.18, 2.53), exercises the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a renewal of the information collection regarding laboratories. The approval for this information collection will expire on February 28, 2019. FSIS is making no changes to the approved collection.

FSIS uses the PEPRL–F–0008.04 form as a self-assessment audit checklist to collect information related to the quality assurance and quality control procedures in place at in-plant and private laboratories participating in the Pasteurized Egg Product Recognized Laboratory (PEPRLab) program (9 CFR 590.580). FSIS uses the data collected in the desk audit of existing labs or in the appraisal of new applicants.

Any non-Federal laboratory that is applying for the FSIS Accredited Laboratory program regarding the testing of meat and poultry products needs to complete FSIS Form 10,110–2, Application for FSIS Accredited Laboratory Program. (9 CFR 439). State or private laboratories only submit the application once for entry into the program. FSIS uses the information collected by the form to help assess the laboratory applying for admission to the FSIS Accredited Laboratory program. FSIS has made the following estimates based upon an information collection assessment.

Estimate of Burden: FSIS estimates that it will take respondents an average of 0.96 hours per year to complete a laboratory form.

Respondents: Laboratories.

Estimated Number of Respondents: 13.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 13 hours. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

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How To File a Complaint of Discrimination

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Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–21858 Filed 10–5–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 180608532–8841–02]

Soliciting Feedback From Users on 2020 Census Data Products; Reopening of Comment Period

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice and request for comment; reopening of comment period.

SUMMARY: The Bureau of the Census (Census Bureau) is reopening the comment period provided in the notice entitled ''Soliciting Feedback from Users on 2020 Census Data Products,'' which was published in the **Federal Register** on July 19, 2018, in order to allow interested parties additional time to submit comments. The public comment period on that notice closed on September 17, 2018.

DATES: The Census Bureau is reopening the comment period for the notice entitled ''Soliciting Feedback from Users on 2020 Census Data Products,'' which was published in the **Federal Register** on July 19, 2018 (83 FR 34111). The Census Bureau will accept comments received on this notice by November 8, 2018.

ADDRESSES: Please address all written comments to Karen Battle, Chief, Population Division, U.S. Census Bureau, 4600 Silver Hill Road, Room 6H174, Washington, DC 20233, or to *POP.2020.DataProducts@census.gov.*

You may also submit comments, identified by Census Bureau Docket Identification Number USBC–2018–0009, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Karen Battle, U.S. Census Bureau, 4600 Silver Hill Road, Room 6H174, Washington, DC 20233 or *POP.2020.DataProducts@census.gov.*

SUPPLEMENTARY INFORMATION: The Census Bureau is conducting a comprehensive review of the decennial census data products in preparation for the 2020 Census. It seeks feedback to understand how the public uses decennial census data products. Public feedback is essential for a complete review of the decennial census data products and will assist the Census Bureau in prioritizing products for the 2020 Census. In response to individuals and organizations who have requested more time to submit comments, the Census Bureau has decided to extend the comment period to November 8, 2018. This document announces the extension of the comment period.

The Census Bureau is not seeking feedback on apportionment counts and redistricting data products, which are constitutionally and statutorily mandated, respectively. For more information about this program, please see the original document published in the **Federal Register** on July 19, 2018 (83 FR 34111). All comments and information received during the prior comment period, as well as those received between September 17 and October 9, 2018, will be fully considered and do not need to be resubmitted.

Dated: October 2, 2018.

Ron S. Jarmin,

Deputy Director, Performing the Non-Exclusive Functions and Duties of the Director Bureau of the Census.

[FR Doc. 2018–21837 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–33–2018]

Foreign-Trade Zone (FTZ) 12—McAllen, Texas; Authorization of Limited Production Activity; Black & Decker (U.S.), Inc. (Indoor and Outdoor Power Tools and Related Components) Mission, Texas

On June 1, 2018, Black & Decker (U.S.), Inc., submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 12—Site 4, in Mission, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 26948, June 11, 2018). On October 1, 2018, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring that lithium-ion batteries and related components (lithium-ion cells, assembly housings, cell holders, front insert covers, cover housings, and latches) be admitted to the zone in privileged foreign status (19 CFR 146.41).

Dated: October 2, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–21848 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Qingdao Doo Won Foods Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) has conducted a new shipper review (NSR) of Qingdao Doo Won Foods Co., Ltd. (Doo Won) regarding the antidumping duty order on fresh garlic from the People's Republic of China (China). Based on our analysis of the comments received, we continue to find Doo Won is not the producer of the fresh garlic it exported to the United States. Consequently, we are rescinding this NSR.

DATES: Applicable October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace and Alex Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6251 and (202) 482–4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 2017, Commerce published a notice of initiation of a new shipper review of fresh garlic from China for the period November 1, 2016, through April 30, 2017.[1] On May 17, 2018, Commerce published the preliminary results of this new shipper review.[2] On August 1, 2018, Commerce

[1] *See Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2016–2017,* 82 FR 31756 (July 10, 2017).

[2] *See Fresh Garlic from the People's Republic of China: Preliminary Rescission of the New Shipper Review,* 83 FR 22959 (May 17, 2018) (*Preliminary*

cancelled the planned verification of Doo Won's responses due to the unverifiable state of the record.[3] The period of review (POR) is November 1, 2016, through April 30, 2017. A summary of the events that occurred since Commerce published the *Preliminary Results,* as well as a full discussion of the issues raised by parties for this final determination, are found in the Issues and Decision Memorandum, dated concurrently with, and hereby adopted by, this notice.[4] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[5] Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

Final Rescission of New Shipper Review

As explained in the Issues and Decision Memorandum, we continue to find that Doo Won is not the producer of the garlic subject to this review. Accordingly, its new shipper review request was invalid under 19 CFR 351.214(b)(2)(ii). As a result, we are rescinding the new shipper review of Doo Won.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that are raised in the briefs and addressed in the Issues and Decision Memorandum is in the Appendix to this notice.

Cash Deposit Requirements

Effective upon publication of the final rescission of the NSR of Doo Won, Commerce will instruct U.S. Customs and Border Protection (CBP) to collect cash deposits for exports of subject merchandise by Doo Won entered, or withdrawn from warehouse, for consumption on or after the publication date, at the China-wide rate.[6]

Assessment Instructions

As the result of this rescission of the NSR of Doo Won, the entries of Doo Won covered by this NSR will be assessed at the cash deposit rate required at the time of entry, which is the China-wide rate.

Notification to Importers

This notice serves as final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary of Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of business proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). We request timely written notification of return or destruction of APO materials or conversion to judicial protective order. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published this notice in accordance with sections 751(i) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: October 1, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. *Bona Fides* Analysis
V. Finding that Doo Won is not the Producer of the Subject Merchandise
VI. Discussion of the Issues
  Comment 1: Whether Doo Won was the Producer of the Subject Merchandise
  Comment 2: Whether Commerce's Reliance on ''Inconsistencies'' in Doo Won's Responses to Substantiate its Cancellation of Verification is Reasonable
  Comment 3: Whether Commerce is Obligated to Verify or Utilize Doo Won's Reported Information
  Comment 4: Whether Commerce Wrongfully Rejected Doo Won's New Factual Information
VII. Recommendation

[FR Doc. 2018–21733 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–DS–P

Results) and accompanying Preliminary Decision Memorandum.

[3] *See* Commerce's Letter, ''Semiannual New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China—Cancellation of Qingdao Doo Won Food Co., Ltd.'s Verification,'' dated August 1, 2018.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Rescission of Antidumping Duty Semiannual New Shipper Review on Fresh Garlic from the People's Republic of China: Qingdao Doo Won Foods Co., Ltd.,'' dated October 1, 2018 (Issues and Decision Memorandum).

[5] *See* the Issues and Decision Memorandum.

[6] *See* 19 CFR 351.212(c).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–844]

Narrow Woven Ribbons With Woven Selvedge From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that sales of subject merchandise to the United States have been made at prices below normal value during the period of review (POR) September 1, 2016, through August 31, 2017. Further, Commerce preliminarily finds that Banduoo Ltd. (Banduoo), Fujian Rongshu Industry Co., Ltd. (Fujian Rongshu), Roung Shu Industry Corporation (Roung Shu), and Xiamen Yi-He Textile Co., Ltd. (Xiamen Yi-He)

made no shipments of subject merchandise during the POR. We invite all interested parties to comment on these preliminary results.

DATES: Applicable October 9, 2018.

FOR FURTHER INFORMATION CONTACT: David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3693.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to this order covers narrow woven ribbons with woven selvedge.[1] The merchandise subject to this order is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050; and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

Methodology

Commerce is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Because mandatory respondent Ming Wei Co., Ltd. (Ming Wei) withdrew from participation in the administrative review and failed to respond to Commerce's questionnaire, we preliminarily determine to apply adverse facts available (AFA) to this respondent, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. For a full discussion of the rationale underlying our preliminary results, *see* the Preliminary Decision Memorandum.

A list of the topics included in the Preliminary Decision Memorandum is attached as an Appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of No Shipments

On November 20, 2017, and November 30, 2017, Fujian Rongshu, Roung Shu, and Xiamen Yi-He, and Banduoo, respectively, timely filed statements reporting that they made no shipments of subject merchandise to the United States during the POR. Subsequently, we received information from U.S. Customs and Border Protection (CBP) confirming the no shipment claims from Banduoo, Fujian Rongshu, and Xiamen Yi-He.

With respect to Roung Shu, we determined that it was necessary to request additional information from CBP and Roung Shu related to various POR entries of merchandise produced by Roung Shu. After reviewing the additional information provided by Roung Shu,[2] we preliminarily determine that Roung Shu had no shipments during the POR.

Based on the foregoing, Commerce preliminarily determines that Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He had no shipments during the POR. For additional information regarding this determination, *see* the Preliminary Decision Memorandum. Consistent with our practice, we are not preliminarily rescinding the review with respect to Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He but, rather, we will complete the review with respect to these companies and issue appropriate instructions to CBP based on the final results of this review.[3]

Preliminary Results of the Review

Commerce preliminarily determines that the following weighted-average dumping margin exists:

Producer/exporter	Dumping margin (percent)
Ming Wei Co., Ltd	137.20

Public Comment

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[4] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[5] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[6] Case and rebuttal briefs should be filed using ACCESS.[7]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[8] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[9]

Commerce intends to issue the final results of this administrative review, including the results of its analysis raised in any written briefs, not later than 120 days after the publication date of this notice, pursuant to section 751(a)(3)(A) of the Act.

[1] For a complete description of the scope of the order, *see* Memorandum, ''Decision Memorandum for the Preliminary Results of the (2014–2015) Administrative Review of the Antidumping Duty Order on Narrow Woven Ribbons with Woven Selvedge from Taiwan'' (Preliminary Decision Memorandum), dated concurrently with and hereby adopted by this notice.

[2] *See* Roung Shu's Letter re: Narrow Woven Ribbons with Woven Selvedge from Taiwan: Roung Shu's Response to the Department's May 2, 2018 Questions, dated May 16, 2018, and Roung Shu's Letter re: Narrow Woven Ribbons with Woven Selvedge from Taiwan: Roung Shu's Response to the Department's May 22, 2018 Supplemental Questionnaire, dated May 25, 2018. In these submissions, Roung Shu provided documentation to demonstrate that it only exported non-subject ribbon to the United States during the POR.

[3] *See, e.g., Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR at 51306 (August 28, 2014).

[4] *See* 19 CFR 351.309(c).

[5] *See* 19 CFR 351.309(d)

[6] *See* 19 CFR 351.309(c)(2) and (d)(2).

[7] *See* 19 CFR 351.303.

[8] *See* 19 CFR 351.310(c).

[9] *Id.*

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[10] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review. Where assessments are based upon total facts available, including AFA, we instruct CBP to assess duties at the AFA margin rate. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[11]

Further, if we continue to find in the final results that Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He had no shipments of subject merchandise during the POR, we will instruct CBP to liquidate any suspended entries that entered under their antidumping duty case numbers (*i.e.,* at that exporter's rate) at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Ming Wei will be that established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.37 percent, the all-others rate determined in the less-than-fair-value investigation.[12] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 2, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Determination of No Shipments
V. Application of Facts Available and Adverse Inferences
  A. Use of Facts Otherwise Available
  B. Application of Facts Available With an Adverse Inference
  C. Selection and Corroboration of Adverse Facts Available Rate
VI. Recommendation

[FR Doc. 2018–21849 Filed 10–5–18; 8:45 am]

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[10] *See* 19 CFR 351.212(b)(1).

[11] *See* section 751(a)(2)(C) of the Act.

[12] *See Narrow Woven Ribbons With Woven Selvedge from Taiwan and the People's Republic of China: Amended Antidumping Duty Orders,* 75 FR 56982, 56985 (September 17, 2010).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–877]

Stainless Steel Flanges From India: Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on stainless steel flanges from India.

DATES: Applicable October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros or Christian Llinas, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425 and (202) 482–4877, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on August 16, 2018, Commerce published its affirmative *Final Determination* in the less than fair value (LTFV) investigation of stainless steel flanges from India.[1] On September 28, 2018, the ITC notified Commerce of its final determination pursuant to section 735(d) of the Act, that an industry in the United States is materially injured by reason of LTFV imports of stainless steel flanges from India, within the meaning of section 735(b)(1)(A) of the Act.[2]

Scope of the Order

The products covered by this order are stainless steel flanges from India. For a complete description of the scope of the order, *see* the Appendix to this notice.

Antidumping Duty Order

In accordance with sections 735(b)(1)(A) and 735(d) of the Act, the ITC has notified Commerce of its final determination in this investigation, in which it found that imports of stainless steel flanges from India are materially injuring a U.S. industry.[3] Therefore, in accordance with sections 735(c)(2) and 736(a) of the Act, we are publishing this antidumping duty order.

As a result of the ITC's final determination, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of stainless steel flanges from India. These antidumping duties

[1] *See Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination,* 83 FR 40745 (August 16, 2018) (*Final Determination*).

[2] *See* ITC Letter regarding stainless steel flanges from India, dated September 28, 2018 (ITC Notification); *see also Stainless Steel Flanges from China,* Inv. No. 731–TA–1384 (Final), USITC Pub. 4828 (September 2018).

[3] *See* ITC Notification.

will be assessed on unliquidated entries of stainless steel flanges from India entered, or withdrawn from warehouse, for consumption on or after March 28, 2018, the date of publication of the *Preliminary Determination,*[4] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on entries of subject merchandise from India. We will also instruct CBP to require cash deposits equal to the estimated amount by which the normal value exceeds the U.S. price as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the estimated antidumping duty margin.[5] The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed in the table below.

Provisional Measures

Section 733(d) of the Act states that instructions to suspend liquidation issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of subject merchandise request to extend the four-month period to six months. The four-month period beginning on March 28, 2018, the date of publication of the *Preliminary Determination,* ended on August 10, 2018. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of stainless steel flanges from India entered, or withdrawn from warehouse, for consumption on or after August 10, 2018, the day after which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Estimated Dumping Margins

Commerce determines that the estimated final weighted-average dumping margins are as follows:

Exporter or producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for offset(s)) (percent)
Chandan	19.16	14.29
Echjay single entity	145.25	140.38
Bebitz/Viraj single entity	145.25	145.25
All Others	19.16	14.29

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to stainless steel flanges from India, pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: October 2, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The products covered by this investigation are certain forged stainless-steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless-steel flanges). Certain forged stainless steel flanges are generally manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term ''stainless steel'' used in this scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

Unfinished stainless-steel flanges possess the approximate shape of finished stainless steel flanges and have not yet been machined to final specification after the initial forging or like operations. These machining processes may include, but are not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing. Semi-finished stainless steel flanges are unfinished stainless-steel flanges that have undergone some machining processes.

The scope includes six general types of flanges. They are: (1) Weld neck, generally used in butt-weld line connection; (2) threaded, generally used for threaded line connections; (3) slip-on, generally used to slide over pipe; (4) lap joint, generally used with stub-ends/butt-weld line connections; (5) socket weld, generally used to fit pipe into a machine recession; and (6) blind, generally used to seal off a line. The sizes and descriptions of the flanges within the scope include all pressure classes of ASME B16.5 and range from one-half inch to twenty-four inches nominal pipe size. Specifically excluded from the scope of this investigation are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A351.

The country of origin for certain forged stainless-steel flanges, whether unfinished, semi-finished, or finished is the country where the flange was forged. Subject merchandise includes stainless steel flanges as defined above that have been further processed in a third country. The processing includes, but is not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing, and/or any other processing that would not otherwise remove the merchandise from the scope of

[4] *See Stainless Steel Flanges from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 13246 (March 28, 2018) (*Preliminary Determination*).

[5] *See* section 736(a)(3) of the Act.

the investigation if performed in the country of manufacture of the stainless-steel flanges.

Merchandise subject to this investigation is typically imported under headings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings and ASTM specifications are provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2018–21851 Filed 10–5–18; 8:45 a.m.]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG527

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Monday, October 22 through Thursday, October 25, 2018.

ADDRESSES: The meeting will take place at the Battle House Renaissance Mobile Hotel & Spa, located at 26 North Royal Street, Mobile, AL 36602–3802; telephone: (251) 338–2000.

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, October 22, 2018; 8 a.m.–5:30 p.m.

The meeting will begin in a Full Council session to assign council members to the October 2018 through October 2019 Committees. The Committee Sessions will begin approximately 8:30 a.m. with the Coral Committee reviewing analysis for the Vessel Monitoring System (VMS) and Electronic Logbooks (ELB) Information for the Flower Garden Banks National Marine Sanctuary Expansion. The Mackerel Committee will receive an update on Coastal Migratory Pelagics (CMP) Landings; and discuss taking final action on CMP Framework Amendment 7—Modifications to Gulf Cobia Size and Possession Limits. The Administrative/Budget Committee will convene to review and approve the funded budget, and proposed modifications to the Statement of Organization Practices and Procedures (SOPPs).

After lunch, the Gulf SEDAR Committee will receive a summary from the SEDAR Steering Committee Meeting; and review the Gulf of Mexico SEDAR Schedule. The Sustainable Fisheries Committee will review the revised draft of the Conversion of Historical Captain Endorsements to Federal For-Hire Permits; Revised Generic Amendment for Carryover of Unharvested Quota; and the Gulf of Mexico Allocation Review Triggers.

Tuesday, October 23, 2018; 8:30 a.m.–5 p.m.

The Reef Fish Management Committee will review Reef Fish Landings and the revised draft for Amendment 50: State Management Program for Recreational Red Snapper and Individual State Amendments. After lunch, the committee with discuss Reef Fish Management Objectives; review draft amendment for Establishing Gray Snapper Status Determination Criteria, Reference Points, and Modifications to Annual Catch Limits; receive a presentation on the Great Red Snapper Count; receive a summary from the Scientific and Statistical Committee (SSC) meeting; and discuss the Status of Convening the Ad Hoc Reef Fish Headboat and Red Snapper Charter For-hire Advisory Panels.

Wednesday, October 24, 2018; 8:30 a.m.–5:30 p.m.

The Data Committee will review revisions to the Marine Recreational Information Program's (MRIP) Recreational Data Collection Program; receive a presentation summary report from the For-Hire Electronic Reporting Workshop hosted by the Quality Management Professional Specialty Group, and an update from the MRIP Red Snapper Survey Design Workshop. The Ecosystem Committee will review a draft outline of the Fishery Ecosystem document. The Shrimp Committee will review draft options for Shrimp Amendment 18: Evaluation of Shrimp Effort Threshold Reduction in the Area Monitored for Juvenile Red Snapper Bycatch; and, the Law Enforcement Committee will give a summary from the Joint Law Enforcement Technical Committee and Law Enforcement Committee meeting; and approve the 2019–20 Operations Plan.

Late morning (approximately 11:15 a.m.), the Full Council will reconvene with a Call to Order, Announcements, and Introductions; Adoption of Agenda and Approval of Minutes; and presenting the Recipient of the 2017 Law Enforcement Officer of the Year Award. The Council will review Exempted Fishing Permit (EFP) applications, if any; receive a presentation on Alabama Law Enforcement efforts; and a summary on Highly Migratory Species (HMS) Advisory Panel efforts. After lunch, the Council will receive public testimony from 1:30 p.m. until 4:30 p.m. on the following items: Final Action: CMP Framework Amendment 7: Modifications to Gulf Cobia Size and Possession Limits; and, open testimony on any other fishery issues or concerns. Anyone wishing to speak during public comment should sign in at the registration station located at the entrance to the meeting room. Following public testimony, the Council will begin receiving committee reports from the Coral, Administrative/Budget, and Gulf SEDAR Management Committees.

Thursday, October 25, 2018; 8:30 a.m.–3 p.m.

The Council will continue to receive committee reports from Mackerel, Sustainable Fisheries, Data Collection, Shrimp, Ecosystem, Law Enforcement, and Reef Fish Management Committees. After lunch, the Council will vote on Exempted Fishing Permit (EFP) applications, if any; and receive updates from the following supporting agencies: South Atlantic Fishery Management Council; NOAA Office of Law Enforcement (OLE), Gulf States Marine Fisheries Commission; U.S. Coast Guard; U.S. Fish and Wildlife Service; and, the Department of State.

Lastly, the Council will discuss any Other Business items. Discussion on Aquaculture Court Decision

—*Meeting Adjourns*

The meeting will be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Council meeting on the calendar.

The timing and order in which agenda items are addressed may change as required to effectively address the issue, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not contained in this agenda may come

before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 3, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–21838 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG518

Atlantic Highly Migratory Species; Advisory Panel

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

ACTION: Notice; solicitation of nominations.

SUMMARY: NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Advisory Panel (AP). NMFS consults with and considers the comments and views of the HMS AP when preparing and implementing Fishery Management Plans (FMPs) or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. Nominations are being sought to fill approximately one-third (11) of the seats on the HMS AP for a 3-year appointment. Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations are considered for membership on the HMS AP.

DATES: Nominations must be received on or before November 8, 2018.

ADDRESSES: You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- *Email: HMSAP.Nominations@noaa.gov.* Include in the subject line the following identifier: ''HMS AP Nominations.''
- *Mail:* Peter Cooper, Highly Migratory Species Management Division, NMFS SF1, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Peter Cooper at (301) 427–8503.

SUPPLEMENTARY INFORMATION:

Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* as amended by the Sustainable Fisheries Act, Public Law 104–297, provided that the Secretary may establish Advisory Panels to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment for any highly migratory species fishery that is under the Secretary's authority. NMFS has consulted with the HMS AP on: Amendment 1 to the Billfish FMP (1999); the HMS FMP (1999); Amendment 1 to the HMS FMP (2003); the 2006 Consolidated HMS FMP (2006); and Amendments 1 (2009), 2 (2008), 3 (2010), 4 (2012), 5a (2013), 5b (2017), 6 (2015), 7 (2014), 8 (2013), 9 (2015), 10 (2017), and 11 (2018) to the 2006 Consolidated HMS FMP; among other relevant fishery management issues.

Procedures and Guidelines

A. Nomination Procedures for Appointments to the Advisory Panel

Nomination packages should include:

1. The name of the nominee and a description of his/her interest in HMS or HMS fisheries, or in particular species of sharks, swordfish, tunas, or billfish;
2. Contact information, including mailing address, phone, and email of the nominee;
3. A statement of background and/or qualifications;
4. A written commitment that the nominee shall actively participate in good faith, and consistent with ethics obligations, in the meetings and tasks of the HMS AP; and
5. A list of outreach resources that the nominee has at his/her disposal to communicate Qualifications for HMS AP Membership.

Qualification for membership includes one or more of the following: (1) Experience in HMS recreational fisheries; (2) experience in HMS commercial fisheries; (3) experience in fishery-related industries (*e.g.,* marinas, bait and tackle shops); (4) experience in the scientific community working with HMS; and/or (5) representation of a private, non-governmental, regional, national, or international organization representing marine fisheries, or environmental, governmental, or academic interests dealing with HMS.

Tenure for the HMS AP

Member tenure will be for 3 years (36 months), with approximately one-third of the members' terms expiring on December 31 of each year. Nominations are sought for terms beginning January 2019 and expiring December 2021.

B. Participants

Nominations for the HMS AP will be accepted to allow representation from commercial and recreational fishing interests, academic/scientific interests, and the environmental/non-governmental organization community, who are knowledgeable about Atlantic HMS and/or Atlantic HMS fisheries. Current representation on the HMS AP, as shown in Table 1, consists of 12 members representing commercial interests, 12 members representing recreational interests, 4 members representing environmental interests, 4 academic representatives, and the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee Chairperson. Each HMS AP member serves a 3-year term with approximately one-third of the total number of seats (33) expiring on December 31 of each year. NMFS seeks to fill 3 commercial, 4 recreational, 3 academic and 1 environmental organization vacancies by December 31, 2018. NMFS will seek to fill vacancies based primarily on maintaining the current representation from each of the sectors. NMFS also considers species expertise and representation from the fishing regions (Northeast, Mid-Atlantic, Southeast, Gulf of Mexico, and Caribbean) to ensure the diversity and balance of the AP. Table 1 includes the current representation on the HMS AP by sector, region, and species with terms that are expiring identified in bold. It is not meant to indicate that NMFS will only consider persons who have expertise in the species or fishing regions that are listed. Rather, NMFS will aim toward having as diverse and balanced an AP as possible.

TABLE 1—CURRENT REPRESENTATION ON THE HMS AP BY SECTOR, REGION, AND SPECIES

[Terms that are expiring or for whom current members are stepping down are marked as ''Expiring''. NMFS tries to maintain diversity and balance in representation among fishing regions and species]

Sector	Fishing region	Species	Date appointed	Date term expires	Member status
Academic	All	Swordfish/Tuna	1/1/2018	12/31/2020	Active.
Academic	All	Tuna	1/1/2016	12/31/2018	Expiring.
Academic	Gulf of Mexico/Southeast	Shark	1/1/2016	12/31/2018	Expiring.
Academic	Southeast	Swordfish/HMS	1/1/2016	12/31/2018	Expiring.
Commercial	Southeast	Shark	1/1/2018	12/31/2020	Active.
Commercial	All	HMS	1/1/2018	12/31/2020	Active.
Commercial	Northeast	Tuna	1/1/2018	12/31/2020	Active.
Commercial	Gulf of Mexico/Southeast	Swordfish/Tuna	1/1/2018	12/31/2020	Active.
Commercial	Northeast	Tuna	1/1/2018	12/31/2020	Active.
Commercial	Northeast	Tuna	1/1/2018	12/31/2020	Active.
Commercial	Southeast	Shark	1/1/2016	12/31/2018	Expiring.
Commercial	Southeast	Swordfish/Tuna	1/1/2016	12/31/2018	Expiring.
Commercial	Northeast	Tuna	1/1/2016	12/31/2018	Expiring.
Commercial	Mid-Atlantic	HMS/Shark	1/1/2017	12/31/2019	Active.
Commercial	Mid-Atlantic	Swordfish/Tuna	1/1/2017	12/31/2019	Active.
Commercial	Gulf of Mexico	Shark	1/1/2017	12/31/2019	Active.
Environmental	All	Shark	1/1/2018	12/31/2020	Active.
Environmental	All	HMS	1/1/2016	12/31/2018	Expiring.
Environmental	All	Tuna	1/1/2017	12/31/2019	Active.
Environmental	All	HMS	1/1/2017	12/31/2019	Active.
Recreational	All	Billfish	1/1/2018	12/31/2020	Active.
Recreational	Mid-Atlantic	Shark	1/1/2018	12/31/2020	Active.
Recreational	Mid-Atlantic	Tuna/Billfish	1/1/2018	12/31/2020	Active.
Recreational	Northeast	Tuna/Shark	1/1/2016	12/31/2018	Expiring.
Recreational	Northeast	HMS	1/1/2016	12/31/2018	Expiring.
Recreational	Mid-Atlantic	HMS	1/1/2016	12/31/2018	Expiring.
Recreational	Southeast	Billfish/HMS	1/1/2016	12/31/2018	Expiring.
Recreational	Northeast	HMS	1/1/2017	12/31/2019	Active.
Recreational	Mid-Atlantic	Tuna	1/1/2017	12/31/2019	Active.
Recreational	Mid-Atlantic	HMS	1/1/2017	12/31/2019	Active.
Recreational	Southeast	Billfish	1/1/2017	12/31/2019	Active.
Recreational	Gulf of Mexico	HMS	1/1/2017	12/31/2019	Active.

The intent is to have a group that, as a whole, reflects an appropriate and equitable balance and mix of interests given the responsibilities of the HMS AP.

Five additional members on the HMS AP include one member representing each of the following Councils: New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council. The HMS AP also includes 22 ex-officio participants: 20 representatives of the coastal states and two representatives of the interstate commissions (the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission).

NMFS will provide the necessary administrative support, including technical assistance, for the HMS AP. However, NMFS will not compensate participants with monetary support of any kind. Depending on availability of funds, members may be reimbursed for travel costs related to the HMS AP meetings.

C. Meeting Schedule

Meetings of the HMS AP will be held as frequently as necessary but are routinely held twice each year—once in the spring, and once in the fall. The meetings may be held in conjunction with public hearings.

Dated: October 3, 2018.

Margo Schulze-Haugen,

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

[FR Doc. 2018–21847 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Access-Point Angler Intercept Survey (APAIS)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 10, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Tom Sminkey, Ph.D., National Marine Fisheries Service, Office of Science and Technology, 1315 East-West Hwy./FST1, Rm 12358, Silver Spring, MD 21910, Phone: (301) 427–8177 or *Tom.Sminkey@NOAA.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

Marine recreational anglers are surveyed to collect catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

Marine recreational fishing catch and effort data are collected through a combination of mail surveys, telephone surveys and on-site intercept surveys with recreational anglers. Amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) require the development of an improved data collection program for recreational fisheries. To partially meet these requirements, NOAA Fisheries designed and implemented a new Access-Point Angler Intercept Survey (APAIS) in 2013 to ensure better coverage and representation of recreational fishing activity.

The APAIS intercepts marine recreational fishers at public-access sites in coastal counties from Maine to Mississippi and Hawaii to obtain information about the just-completed day's fishing activity. Respondents are asked about the time and type of fishing, the angler's avidity and residence location, and details of any catch of finfish. Species identification, number, and size are collected for any available landed catch. Data collected from the APAIS are used to estimate the catch per angler of recreational saltwater fishers. These APAIS estimates are combined with estimates derived from independent but complementary surveys of fishing effort, the Fishing Effort Survey and the For-Hire Survey, to estimate total, state-level fishing catch, by species, and participation. These estimates are used in the development, implementation, and monitoring of fishery management programs by the NMFS, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

II. Method of Collection

Information will be collected through onsite in-person interviews.

III. Data

OMB Number: 0648–0659.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time per Response: 5 minutes for intercepted anglers.

Estimated Total Annual Burden Hours: 8,333.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 3, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–21862 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Community Quota Entity (CQE) Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 10, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gabrielle Aberle, 907–586–7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

The Community Quota Entity (CQE) Program provides eligible communities in Alaska the means for starting or supporting commercial fisheries activities that will result in an ongoing, regionally based, fisheries-related economy. Under the Community Quota Entity Program, 46 eligible communities are authorized to form nonprofit entities called CQEs to participate in certain Federal limited access privilege programs.

Under the Individual Fishing Quota (IFQ) CQE Program, CQEs may purchase commercial halibut and sablefish quota share (QS) for lease to residents of the eligible community. Under the Charter Halibut Limited Access Program, CQEs may request community charter halibut permits (CHPs) for use in southeast Alaska and the central Gulf of Alaska. Under the License Limitation Program (LLP), CQEs may request non-trawl groundfish LLP licenses endorsed for Pacific cod in the central or western Gulf of Alaska.

This information collection contains the applications and reporting requirements for CQEs. This collection contains applications used by a nonprofit corporation to become a CQE; by CQEs to receive nontrawl groundfish LLP licenses and CHP permits; by CQEs to transfer or receive IFQ QS; by CQEs to transfer IFQ to an eligible community resident or non-resident; and by CQEs to transfer between commercial halibut IFQ and halibut guided angler fish (GAF). In addition, this collection contains two reporting requirements: An annual report and an authorization letter. Annually each CQE must submit a report describing its business operations and fishing activities for each eligible community it represents. CQEs requesting LLP groundfish licenses must annually submit an authorization letter that assigns each community LLP license to a user and vessel.

II. Method of Collection

The applications are available as fillable PDFs on the NMFS Alaska Region website at *https://alaskafisheries.noaa.gov/fisheries-applications* that may be downloaded, printed, faxed or mailed to NMFS. The CQE annual report must be mailed. The CQE authorization letter may be submitted as an attachment to an email.

III. Data

OMB Control Number: 0648–0665.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Not-for-profit institutions; Individuals or households.

Estimated Number of Respondents: 75.

Estimated Time Per Response: 200 hours for Application for a Non-profit Corporation to be Designated as a CQE; 2 hours each for Application to transfer QS IFQ to or from a CQE, Application for CQE to Transfer IFQ to an Eligible Community Resident or Non-resident, and Application for Transfer between IFQ and GAF by a CQE; 20 hours for Application for a CQE to Receive a Nontrawl Groundfish LLP License; 40 hours for CQE Annual Report; 1 hour each for Application for Community Charter Halibut Permit and CQE LLP Authorization Letter.

Estimated Total Annual Burden Hours: 1,884 hours.

Estimated Total Annual Cost to Public: $264 in recordkeeping and reporting costs.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 3, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–21815 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Region Amendment 80 Permits and Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 10, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Stephanie Warpinski, 907–586–7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area allocates several Bering Sea and Aleutian Islands Management Area non-pollock trawl groundfish fisheries among trawl fishery sectors, established a limited access privilege program, and facilitated the formation of harvesting cooperatives in the non-American Fisheries Act (non-AFA) trawl catcher/processor sector.

The Amendment 80 Program encourages the formation of cooperatives and cooperative fishing practices among all persons holding Amendment 80 quota share (QS) permits. The cooperatives that receive allocations of cooperative quota (CQ) allow vessel operators to make operational choices to improve fishery returns, reduce prohibited species catch usage, and reduce fish discards.

This information collection is necessary to manage participation in the Amendment 80 Program. This collection contains applications used by persons to apply for QS, to apply for an Amendment 80 limited access fishery permit, and to transfer QS; by cooperatives to apply for CQ and transfer CQ; by cooperatives or CDQ groups to exchange CQ for one eligible flatfish species with CQ of a different eligible flatfish species; and by Amendment 80 vessel owners to replace their vessels. Additionally, this collection includes the process used to appeal an application that is denied.

II. Method of Collection

The applications are available as fillable PDFs on the NMFS Alaska Region website at *https://alaskafisheries.noaa.gov/fisheries-applications* that may be downloaded, printed, and faxed or mailed to NMFS. The Flatfish Exchange Application must be submitted online through eFISH on the NMFS Alaska Region website at *https://alaskafisheries.noaa.gov/webapps/efish/login.* The Application for Inter-cooperative Transfer of Amendment 80 CQ is submitted to NMFS through eFISH with the option to mail, fax, or deliver the application. The appeals letter must be submitted by mail or delivery. All other elements of this collection may be submitted to NMFS by mail, fax, or delivery.

III. Data

OMB Control Number: 0648–0565.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; Individuals or households.

Estimated Number of Respondents: 33.

Estimated Time per Response: 2 hours each for Application for Amendment 80 QS, Application for Amendment 80 CQ Permit, Application for Amendment 80 Limited Access Fishery Permit, Application to Transfer Amendment 80 QS, Application for Amendment 80 Vessel Replacement, and Application for Inter-cooperative Transfer of Amendment 80 CQ; 4 hours for Amendment 80 appeals letter; 5 minutes for Flatfish Exchange Application.

Estimated Total Annual Burden Hours: 130 hours.

Estimated Total Annual Cost to Public: $129 in recordkeeping and reporting costs.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 28, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–21522 Filed 10–5–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG499

Endangered Species; File No. 22218

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543 [Responsible Party: Dr. Jon Hare], has applied in due form for a permit to take green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), and unidentified hardshell sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before November 8, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 22218 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Erin Markin, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a 10-year permit to conduct research on sea turtles in the Northwest Atlantic Ocean in its coastal and estuarine environments from North Carolina to Maine and international waters. The objectives of the research are to (1) identify sea turtle stocks and breeding population origins for juvenile through adult life stages, (2) improve knowledge of sea turtle life history, vital rates, and sex ratios, (3) identify important marine habitats, (4) estimate sea turtle distribution and abundance, (5) assess anthropogenic impacts to sea turtles, and (6) provide data to assist in agency mitigation and monitoring efforts. Researchers request 100 takes of each species and 75 unidentified sea turtles annually for harassment during aerial (manned and unmanned) and vessel surveys for sighting, counting, and monitoring animals and methods that do not result in capture—remote scanning for PIT tags, remote suction cup tagging, observation, photography, photogrammetry, and tracking. Researchers request to capture (by hand, dip net, cast net, encirclement net, hoop net or seine) or obtain from other legal sources up to 74 green, 90 Kemp's ridley, 72 leatherback, one unidentified, and 115 loggerhead sea turtles annually for study; each animal may be recaptured two times a year for monitoring and removing gear. These animals may be observed via manned and unmanned aircraft prior to capture, and examined, measured, marked, biologically sampled, and have up to two transmitters attached prior to release. Animals may be temporarily observed via a remotely operated vehicle underwater after release. Sea turtle parts, tissues and carcasses from 500 animals annually may be received, imported or exported for study.

Dated: October 3, 2018.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–21852 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement for the Upcoming Small Business Innovation Research Program (SBIR) Notice of Funding Opportunity and Procurement Award Changes for Fiscal Year 2019 and Beyond

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research (OAR), Technology Partnerships Office (TPO), Department of Commerce (DOC).

ACTION: Notice of awards process change and announcement of upcoming Small Business Innovation Research grants opportunity for FY 2019.

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) will be processing all Small Business Innovation Research Program (SBIR) awards as grants beginning in FY 2019. Our goals are:

1. To transition the SBIR award process from acquisition (Contracts) to financial assistance (Grants), in order to:

a. Expand the scope of SBIR research projects, allowing more creativity on the part of interested small businesses and generating interest beyond ''veteran'' SBIR participants; and

b. Streamlining the award and funds distribution processes, refining NOAA's internal operations and facilitating prompt and seamless payments for participating small businesses.

2. To provide Phase I awards as grants in FY 2019 and all new NOAA SBIR awards, Phase I and Phase II, in FY 2020 and beyond.

For over thirty years—since FY 1985—NOAA has awarded contracts to small, science and technology-focused companies under the Small Business Administration (SBA) administered Small Business Innovation Research Program. Historically, NOAA has carried out the goals and directives of the program using contract procurement processes. However, given the increased emphasis for broader participation, specially by socially and economically disadvantaged persons and women-owned small businesses, NOAA aims to meet these programmatic goals by broadening the potential research areas and engendering more innovative solutions that have potential for the commercial market.

The SBIR program is a highly competitive program that encourages domestic small businesses to engage in Federal Research/Research and Development with the potential for commercialization. Through a competitive awards-based program, SBIR enables small businesses to explore their technological potential and provides the incentive to profit from its commercialization. By including qualified small businesses in the nation's research and development arena, high-tech innovation is stimulated and the United States gains entrepreneurial spirit as it meets its specific research and development needs.

Beginning in FY19, however, all new Phase I awards will be made through a competitive grants process. During Phase I of the NOAA SBIR Program, small businesses are invited to submit innovative research proposals related to the research topic areas derived from the Department of Commerce Strategic Plan, 2018–2022, *https://www.commerce.gov/file/us-department-commerce-2018-2022-strategic-plan.* While the specific subtopics that NOAA seeks to fund through the SBIR program will be available at time of the funding opportunity announcement, the broader topic areas are as follows:

1. Aquaculture
2. Recreational and Commercial Fisheries
3. Weather Service Improvement and Evolution
4. NOAA Big Data Partnerships
5. Next Generation NOAA Platforms
6. Next Generation Observation and Modeling Systems
7. Floods

Phase I gives small businesses the opportunity to establish technical merit, feasibility, and proof of concept for the proposed innovative solution. At NOAA SBIR, we anticipate awarding multiple Phase I grants, with a period of performance of six (6) months and a not-to-exceed value of $120,000.00 each. Any organizations or individuals receiving grants under Phase I is eligible to compete for a follow-up Phase II award.

The FY19 SBIR Phase I Notice of Funding Opportunity (NOFO) will be issued on or about October 22, 2018. The NAICS Code for this acquisition is 541715. The NOAA SBIR NOFO will be available on the *Grants.gov* website. *Please do not submit questions regarding this specific NOFO at this time.* More detailed topic/subtopic information will be available in the NOFO when it is published. After the release of this funding announcement, it will be the offeror's responsibility to monitor *Grants.gov* for any amendments or updates.

The NOFO is a restricted eligibility solicitation which is limited to small businesses. For purposes of this upcoming NOFO announcement for NOAA SBIR, eligibility requirements can be found on *http://www.sbir.gov.* NOAA plans to select for award the application(s) judged to be of the highest overall merit, with consideration given to the quality of the technical approach, innovation, commercial-potential, and company/personnel experience and qualifications.

All potential grantees must be registered with the federal government System for Award Management (SAM) through the SAM.gov website (formerly the Central Contractor Registration database). No award can be made unless the vendor is registered in SAM.gov. For additional information and to register in SAM, please go to *https://sam.gov/* or call 1–866–606–8220. In order to register in SAM and to be eligible to receive an award from this acquisition office, all offerors must have a Dun & Bradstreet Universal Systems (DUNS) Number. A DUNS number may be acquired free of charge by contacting Dun & Bradstreet on-line at *http://fedgov.dnb.com/webform.*

Grant applicants must obtain a DUNS number and register in the SAM prior to submitting an application pursuant to 2 CFR 25.200(b). If the applicant does not provide documentation that they are registered in SAM and their DUNS number, the application will not be considered for funding. In addition, an entity applicant must maintain registration in SAM at all times during which it has an active Federal award or an application or plan under consideration by the Agency.

Additional information concerning DUNS and SAM can be obtained on the *Grants.gov* website at *http://www.grants.gov.* In addition, *Grants.gov* provides access to technical support by calling 800–518–4726 or emailing *support@grants.gov*).

FOR FURTHER INFORMATION CONTACT: Vince Garcia, SBIR Program Manager at *vincent.garcia@noaa.gov.*

Dated: October 2, 2018.

David Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2018–21788 Filed 10–5–18; 8:45 am]

BILLING CODE 3510–KA–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 19–C0001]

Costco Wholesale Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of the Consumer Product Safety Commission's regulations. Published below is a provisionally-accepted Settlement Agreement with Costco Wholesale Corporation, containing a civil penalty in the amount of $3.85 million dollars ($3,850,000), to be paid within thirty (30) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 24, 2018.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 19–C0001, Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Michele Melnick, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7592.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: October 3, 2018.

Alberta E. Mills,

Secretary.

UNITED STATES OF AMERICA

CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of: COSTCO WHOLESALE CORPORATION

CPSC Docket No.: *19–C0001*

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2089 (''CPSA'') and 16 C.F.R. § 1118.20, Costco Wholesale Corporation (''Costco'') and the United States Consumer Product Safety Commission (''Commission''), through its staff, hereby enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order resolve staff's charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. §§ 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Costco Wholesale Corporation is a corporation, organized and existing under the laws of the state of Washington, with its principal place of business in Issaquah, Washington.

STAFF CHARGES

4. Between December 2013 and May 2015, Costco imported and sold approximately 367,000 EKO Sensible Eco Living Trash Cans (''Subject Products'' or ''Trash Cans'') at its warehouse stores throughout the United States.

5. The Trash Cans are 80 liter stainless steel, metal-cylinder Trash Cans with a black plastic protective collar in the opening on the back of the Trash Can.

6. The Trash Cans are a ''consumer product,'' ''distribut[ed] in commerce,'' as those terms are defined or used in sections 3(a)(5) and (8) of the CPSA, 15 U.S.C. § 2052(a)(5) and (8). Costco is a ''manufacturer'' and ''retailer'' of the Trash Cans, as such terms are defined in section 3(a)(11) and (13) of the CPSA, 15 U.S.C. § 2052(a)(11) and (13).

7. The Trash Cans contain a defect which could create a substantial product hazard and create an unreasonable risk of serious injury because the black plastic protective collar in the opening on the back of the Trash Can can become dislodged and expose a sharp edge, posing a laceration hazard to consumers.

8. Between December 2013 and May 2015, Costco received 92 complaints about the Trash Cans, including 60 complaints from consumers who received injuries, including some serious injuries as defined in 16 C.F.R. § 1115.6(c).

9. Despite having information that reasonably supported the conclusion that the Trash Cans contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury, Costco did not notify the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. §§ 2064(b)(3) and (4).

10. The Trash Cans were recalled on July 17, 2015.

11. In failing to immediately inform the Commission about the defect or unreasonable risk associated with the Trash Cans, Costco knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

12. Pursuant to Section 20 of the CPSA, 15 U.S.C. § 2069, Costco is subject to civil penalties for its knowing violation of section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4).

RESPONSE OF COSTCO

13. Costco's Product Safety Committee reviewed reports associated with the Trash Cans that Costco received over time. The large majority of reports that Costco received about the Trash Cans were comments from Members who were returning the Trash Cans to Costco for a refund. Further, in December 2014, the Safety Committee found that the black plastic protective collar in the opening on the back of the Trash Can could not be removed easily from the exemplar sample it reviewed. Based on the available information, the Safety Committee did not believe that Costco had a duty to notify CPSC pursuant to CPSA Section 15(b) before May 2015. Costco does not believe that it knowingly violated the CPSA as that term is defined in the statute.

14. During May 2015, Costco identified additional reported incidents, and learned that the vendor had made a design change to prevent the black plastic protective collar in the opening on the back of the Trash Cans from becoming loose and exposing a sharp metal edge. The Safety Committee also learned that the exemplar sample it had previously reviewed included the modified protective collar. Based on all of the available information, Costco voluntarily notified CPSC in May 2015 pursuant to CPSA Section 15(b). At Costco's request, the vendor also notified CPSC pursuant to CPSA Section 15(b) and then recalled the Trash Cans in cooperation with CPSC.

15. Costco's settlement of this matter does not constitute an admission of staff's charges as set forth in paragraphs 4 through 12 above.

AGREEMENT OF THE PARTIES

16. Under the CPSA, the Commission has jurisdiction over the matter involving the Trash Cans and over Costco.

17. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Costco or a determination by the Commission that Costco violated the CPSA's reporting requirements.

18. In settlement of staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation, Costco shall pay a civil penalty in the amount of $3.85 million (US $3,850,000) within thirty (30) calendar days after receiving service of the Commission's final Order accepting the Agreement. All payments to be made under the Agreement shall constitute debts owing to the United States and shall be made by electronic wire transfer to the United States via: *http://www.pay.gov* for allocation to, and credit against, the payment obligations of Costco under this Agreement. Failure to make such payment by the date specified in the Commission's Order shall constitute Default.

19. All unpaid amounts, if any, due and owing under the Agreement shall constitute a debt due and immediately owing by Costco to the United States, and interest shall accrue and be paid by Costco at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b) from the date of Default, until all amounts due have been paid in full (hereinafter ''Default Payment Amount'' and ''Default Interest Balance''). Costco shall consent to a Consent Judgment in the amount of the Default Payment Amount and Default Interest Balance, and the United States, at its sole option, may collect the entire Default Payment Amount and Default Interest Balance, or exercise any other rights granted by law or in equity, including, but not limited to, referring such matters for private collection; and Costco agrees not to contest, and hereby waives and

discharges any defenses, to any collection action undertaken by the United States, or its agents or contractors, pursuant to this paragraph. Costco shall pay the United States all reasonable costs of collection and enforcement under this paragraph, respectively, including reasonable attorney's fees and expenses.

20. After staff receives this Agreement executed on behalf of Costco, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the *Federal Register*, in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date the Agreement is published in the *Federal Register*, in accordance with 16 C.F.R. § 1118.20(f).

21. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and it is subject to the provisions of 16 C.F.R. § 1118.20(h). Upon the later of: (i) the Commission's final acceptance of this Agreement and service of the accepted Agreement upon Costco, and (ii) the date of the issuance of the final Order, this Agreement shall be in full force and effect and shall be binding upon the parties.

22. Effective upon the later of: (i) the Commission's final acceptance of this Agreement and service of the accepted Agreement upon Costco, and (ii) the date of the issuance of the final Order, for good and valuable consideration, Costco hereby expressly and irrevocably waives and agrees not to assert any past, present or future rights to the following, in connection with the matter described in this Agreement: (i) an administrative or judicial hearing; (ii) judicial review or other challenge or contest of the Commission's actions; (iii) a determination by the Commission of whether Costco failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

23. Costco has and will maintain a compliance program designed to achieve compliance with the CPSA, and which shall contain the following elements: (i) written standards, policies and procedures, including those designed to ensure that information relevant to CPSA compliance is conveyed effectively to personnel responsible for compliance, whether or not an injury is referenced; (ii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary; (iii) effective communication of company CPSA compliance-related policies and procedures to all appropriate employees through regular training programs or otherwise; (iv) Costco's senior management participation in a compliance committee responsible for the review and oversight of compliance matters related to the CPSA; (v) retention of CPSA compliance-related records for at least five (5) years, and availability of such records to staff upon request, provided that retention of cumulative copies of such records shall not be required; and (vi) procedures designed to ensure that: information required to be disclosed by Costco to the Commission is recorded, processed and reported in accordance with applicable law; that all reporting made to the Commission is timely, truthful, complete, accurate and in accordance with applicable law; and that prompt disclosure is made to Costco's management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to affect adversely, in any material respect, Costco's ability to record, process and report to the Commission in accordance with applicable law.

24. Upon reasonable request of staff, Costco shall provide written documentation of its internal controls and procedures, including, but not limited to, the effective dates of the procedures and improvements thereto. Costco shall cooperate fully and truthfully with staff and shall make available relevant non-privileged information and materials, and personnel deemed necessary by staff to evaluate Costco's compliance with the terms of the Agreement.

25. The parties acknowledge and agree that the Commission may publicize the terms of the Agreement and Order.

26. Costco represents that the Agreement: (i) is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of Costco, enforceable against Costco in accordance with its terms. Costco will not directly or indirectly receive any reimbursement, indemnification, insurance-related payment or other payment in connection with the civil penalty to be paid by Costco pursuant to the Agreement and Order.

27. The signatories represent that they are authorized to execute this Agreement.

28. The Agreement is governed by the law of the United States.

29. The Agreement and Order shall apply to, and be binding upon, Costco and each of its successors, transferees, and assigns, and a violation of the Agreement or Order may subject Costco, and each of its successors, transferees, and assigns, to appropriate legal action.

30. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained therein. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party, for that reason, in any subsequent dispute.

31. The Agreement may not be waived, amended, modified or otherwise altered, except as in accordance with the provisions of 16 C.F.R. § 1118.20(h). The Agreement may be executed in counterparts.

32. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Costco agree in writing that severing the provision materially affects the purpose of the Agreement and the Order.

COSTCO WHOLESALE CORPORATION

Dated: _____

By: _____

John Sullivan, *Senior Vice President and General Counsel, Costco Wholesale Corp.*

Dated: September 18, 2018

By: _____

Eric Rubel, *Arnold & Porter Kaye Scholer, 601 Massachusetts Ave. N.W., Washington, D.C. 20001–3743, Counsel to Costco Wholesale Corp.*

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Patricia M. Hanz, *General Counsel*

Mary B. Murphy, A*ssistant General Counsel*

Dated: September 20, 2018

By: _____

Michele Melnick, *Trial Attorney, Division of Compliance, Office of the General Counsel*

UNITED STATES OF AMERICA

CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:

COSTCO WHOLESALE CORPORATION

CPSC Docket No.: 19–C0001

ORDER

Upon consideration of the Settlement Agreement entered into between Costco Wholesale Corporation (''Costco'') and the U.S. Consumer Product Safety Commission (''Commission''), and the Commission having jurisdiction over the subject matter and over the parties, and it appearing that the Settlement Agreement and the Order are in the public interest, it is:

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED that Costco shall comply with the terms of the Settlement Agreement and shall pay a civil penalty in the amount of $3.85 million dollars ($3,850,000), within thirty (30) days after service of the Commission's final Order accepting the Settlement Agreement. The payment shall be made by electronic wire transfer to the Commission via: *http://www.pay.gov.* Upon the failure of Costco to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Costco at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b). If Costco fails to make such payment or to comply in full with any other provision of the Settlement Agreement, such conduct will be considered a violation of the Settlement Agreement and Order.

Provisionally accepted and provisional Order issued on the 3rd day of October, 2018.

By Order of the Commission:

_____

Alberta Mills, *Secretary,*

U.S. Consumer Product Safety Commission.

[FR Doc. 2018–21869 Filed 10–5–18; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2018–HQ–0005]

Submission for OMB Review; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense 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 November 8, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Air Force Family Integrated Results & Statistical Tracking (AFFIRST) automated system; OMB Control Number 0701–0070.

Type of Request: Reinstatement.

Number of Respondents: 37,500.

Responses per Respondent: 1.

Annual Responses: 37,500.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 9,375.

Needs and Uses: The information collection requirement is necessary to record demographic information on Airman & Family Readiness Center (A&FRC) customers, results of the customer's visits, determine customer needs, service plan, referrals, workshop attendance and other related A&FRC activities and services accessed by the customer. Data is used to determine the effectiveness of A&FRC activities and services (results management) as well as collect and provide return on investment data to leadership. Information is compiled for statistical reporting to bases, major commands, Headquarters United States Air Force, Department of Defense and Congress.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID 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.

DOD Clearance Officer: Mr. Frederick Licari.

Requests for copies of the information collection proposal should be sent to Mr. Licari at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: October 3, 2018.

Shelly E. Finke,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–21894 Filed 10–5–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–20–000]

Commission Information Collection Activities (FERC–919); 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 comment on the currently approved information collection, FERC–919 (Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities).

DATES: Comments on the collection of information are due December 10, 2018.

ADDRESSES: You may submit comments (identified by Docket No. IC18–20–000) by either of the following methods:

• *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp*

• *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–919, Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities

OMB Control No.: 1902–0234

Type of Request: Three-year extension of the FERC–919 information collection requirements with no changes to the current reporting requirements.

Abstract: The FERC–919 is necessary to ensure that market-based rates charged by public utilities are just and reasonable as mandated by Federal Power Act (FPA) sections 205 and 206. Section 205 of the FPA requires just and reasonable rates and charges. Section 206 allows the Commission to revoke a seller's market-based rate authorization if it determines that the seller may have gained market power since it was originally granted market-based rate authorization by the Commission.

In 18 Code of Federal Regulations (CFR) Part 35, Subpart H,[1] the Commission codifies market-based rate standards for generating electric utilities for use in the Commission's determination of whether a wholesale seller of electric energy, capacity, or ancillary services qualify for market-based rate authority. Subpart H mandates that sellers submit market power analyses and related filings.

Horizontal Market Power Analysis

Market power analyses must address both horizontal and vertical market power. To demonstrate lack of horizontal market power, the Commission requires two indicative market power screens: the uncommitted pivotal supplier screen (which is based on the annual peak demand of the relevant market) and the uncommitted market share screen applied on a seasonal basis. The Commission presumes sellers that fail either screen to have market power and such sellers may submit a delivered price test analysis or alternative evidence to rebut the presumption of horizontal market power. If a seller fails to rebut the presumption of horizontal market power, the Commission sets the just and reasonable rate at the default cost-based rate unless it approves different mitigation based on case specific circumstances. When submitting horizontal market power analyses, a seller must use the workable electronic spreadsheet provided in Appendix A of Subpart H and include all materials referenced.

Vertical Market Power Analysis

To demonstrate a lack of vertical market power, if a public utility with market-based rates, or any of its affiliates, owns, operates or controls transmission facilities, that public utility must:

- Have on file a Commission-approved Open Access Transmission Tariff[2]
- Submit a description of its ownership or control of, or affiliation with an entity that owns or controls:
  - Intrastate natural gas transportation, intrastate natural gas storage or distribution facilities
  - Sites for generation capacity development; and physical coal supply sources and ownership or control over who may access transportation of coal supplies
- Make an affirmative statement that it has not erected and will not erect barriers to entry into the relevant market

Asset Appendix

In addition to the market power analyses, a seller must submit an asset appendix with its initial application for market-based rate authorization or updated market power analysis, and all relevant change in status filings. The asset appendix must:

- List, among other things, all affiliates that have market-based rate authority
- List all generation assets owned (clearly identifying which affiliate owns which asset) or controlled (clearly identifying which affiliate controls which asset) by the corporate family by balancing authority area, and by geographic region, and provide the in-service date and nameplate and/or seasonal ratings by unit
- Must reflect all electric transmissions and natural gas interstate pipelines and/or gas storage facilities owned or controlled by the corporate family and the location of such facilities.[3]

Triennial Market Power Analysis

Sellers that own or control 500 megawatts or more of generation and/or that own, operate or control transmission facilities, are affiliated with any entity that owns, operates or controls transmission facilities in the same region as the seller's generation assets, or with a franchised public utility in the same region as the seller's generation assets are required to file updated market power analyses every three years. The updated market power analyses must demonstrate that a seller does not possess horizontal market power.

Change in Status Filings

Concerning change of status filings, the Commission requires that sellers file notices of such changes no later than 30 days after the change in status occurs. The Commission also requires that each seller include an appendix identifying specified assets with each pertinent change in status notification filed.

Exemptions From Submitting Updated Market Power Analyses

Wholesale power marketers and wholesale power producers that are not affiliated with franchised public utilities or transmission owners, that do not own transmission, and that do not, together with all of their affiliates, own or control 500 MW or more of generation in a relevant region are not required to submit updated market power analyses. The Commission determines which sellers are in this category through information filed by the utility either when the seller files its initial application for market-based rate authorization or through a separate filing made to request such a determination.

Type of Respondents: Public utilities, wholesale electricity sellers

Estimate of Annual Burden:[4] The Commission estimates the total annual

[1] Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities, Order No. 697, 72 FR 39904 (Jul. 20, 2007), FERC Stats. & Regs. ¶ 31,252 (2007) (Final Rule).

[2] A part of the associated burden is reported separately in information collections FERC–516 (OMB Control Number: 1902–0096).

[3] See Subpart H, Appendix B for standard form.

[4] "Burden" is 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

Continued

burden and cost [5] for this information collection as follows.

The average hourly cost (salary plus benefits), weighing all of these skill sets evenly, is $94.18. The Commission rounds it down to $94/hour.

FERC–919, MARKET BASED RATES FOR WHOLESALE SALES OF ELECTRIC ENERGY, CAPACITY AND ANCILLARY SERVICES BY PUBLIC UTILITIES

Requirement	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & cost (3) * (4) = (5)	Annual cost per respondent ($) (5) ÷ (1)
Market Power Analysis in New Applications for Market-based rates.	144	1	144	250 hrs.; $23,500	36,000 hrs.; $3,384,000.	$23,500
Triennial market power analysis in seller updates.	65	1	65	250 hrs.; $23,500	16,250 hrs.; $1,527.500.	23,500
Appendix B addition to change in status reports.	149	1	149	49 hrs.; $4,606	7,301 hrs.; $686,294	4,606
Total			358		59,551 hrs.; $5,597,794.	

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: September 28, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21774 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD18–7–000]

Commission Information Collection Activities (FERC–725R); Comment Request; Revision

AGENCY: Federal Energy Regulatory Commission.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–725R (Mandatory Reliability Standards: BAL Reliability Standards) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments with the Commission as explained below.

The North American Electric Reliability Corporation submitted a petition (on August 17, 2018) requesting Commission approval of proposed Reliability Standard BAL–002–3 and the retirement of currently effective Reliability Standard BAL–002–2. On August 24, 2018, the Commission issued a Notice in the **Federal Register** requesting public comment on the petition and proposed changes (which would affect the FERC–725R) The Commission received no comments and is making this notation in its submittal of the FERC–725R to OMB.

DATES: Comments on the collection of information are due by December 10, 2018.

ADDRESSES: Comments should be sent to the Commission, in Docket No. RD18–7–000 by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725R, Mandatory Reliability Standards: BAL Reliability Standards.

OMB Control No.: 1902–0268.

Type of Request: Revision to FERC–725R information collection requirements, as discussed in Docket No. RD18–7–000.

of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[5] The estimated hourly costs (for wages and benefits) provided in this section are based on the figures for May 2017 posted by the Bureau of Labor Statistics (BLS) for the Utilities section available (at *https://www.bls.gov/oes/current/naics2_22.htm*) and benefits information (for December 2017, issued March 20, 2018, at *https://www.bls.gov/news.release/ecec.nr0.htm*). The hourly estimates for salary plus benefits are:

—Economist (Occupation Code: 19–3011), $71.98

—Electrical Engineers (Occupation Code: 17–2071), $66.90

—Lawyers (Occupation Code: 23–0000), $143.68

Abstract: On August 17, 2018, the North American Electric Reliability Corporation (NERC) filed a petition seeking approval of proposed Reliability Standard BAL–002–3 (Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event) and the retirement of currently-effective Reliability Standard BAL–002–2. NERC submitted proposed Reliability Standard BAL–002–3 in response to the Commission's directive in Order No. 835 to develop modifications to Reliability Standard BAL–002–2, Requirement R1 to require balancing authorities or reserve sharing groups: (1) To notify the reliability coordinator of the conditions set forth in Requirement R1, Part 1.3.1 preventing it from complying with the 15-minute ACE recovery period; and (2) to provide the reliability coordinator with its ACE recovery plan, including a target recovery time.[1] The NERC petition states ''the proposed modifications to Reliability Standard BAL–002–3 also intend to clarify that communication with the reliability coordinator (RC) should proceed in accordance with Energy Emergency Alert procedures within the EOP Reliability Standards.[2] This communication is done under the currently-effective Reliability Standard BAL–002–2. The communications (and related burden) are already required, and the additional information is de minimis. Therefore the Commission is not modifying the burden estimate and is submitting this to OMB as non-material or non-substantive change to a currently approved collection.

The Office of Electric Reliability approved the NERC proposal in a Delegated Order on September 25, 2018.

Type of Respondents: Balancing authorities and reserve sharing groups.

Estimate of Annual Burden[3]: According to the NERC Compliance Registry as of 8/24/2018, there are 99 balancing authorities in the United States. The Commission bases individual burden estimates on the time needed for balancing authorities to develop tools needed to facilitate reporting that are required in the Reliability Standard. These burden estimates are consistent with estimates for similar tasks in other Commission-approved Reliability Standards.

[1] Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event Reliability Standard, Order No. 835, 158 FERC ¶ 61,030, at P 37 (2017).

[2] NERC Petition at 3.

[3] 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 information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[4] Reliability Standard BAL–002–2 applies to balancing authorities and reserve sharing groups. However, the burden associated with the balancing authorities complying with Requirements R1 and R3 is not included in this table because that burden doesn't change and the Commission already accounted for it under Commission-approved Reliability Standard BAL–002–1.

[5] The estimated hourly cost (wages plus benefits) is based on Bureau of Labor Statistics (BLS) information (available at *http://www.bls.gov/oes/current/naics2_22.htm* and, for benefits, *https://www.bls.gov/news.release/ecec.nr0.htm*). The hourly cost (wages plus benefits) for developing and maintaining operating process and plans is $105.29 and is an average for an electrical engineer (Occupation code 17–2071, $66.90/hour) and Legal (Occupation code 23–0000, $ $143.68). The hourly cost (wages plus benefits) for record retention is $39.68 for information and record clerks (Occupation code 43–4199).

[6] BA = Balancing Authority; RSG = Reserve Sharing Group.

[7] This figure of 8 hours/response is an average of the hourly burden per response for Years 1–3. Year 1 burden: 12 hours per response; Years 2–3, each: 6 hours/response. The average annual burden for Years 1–3 is 8 hours/response (or [12 hours + 6 hours + 6 hours] ÷ 3).

FERC–725R, AS MODIFIED BY RM16–7–000 FINAL RULE (BAL–002–2: DISTURBANCE CONTROL STANDARD—CONTINGENCY RESERVE FOR RECOVERY FROM A BALANCING CONTINGENCY EVENT)[4 5]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost per response ($) (4)	Total annual burden hours & total annual cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
BA/RSG:[6] Develop and Maintain annually, Operating Process and Operating Plans.	99	1	99	8[7] hrs.; $842.32	792 hrs.; $83,390	$842.32
BA/RSG: Record Retention	99	1	99	4 hrs.; $158.72	396 hrs.; $15,713	158.72
TOTAL			198		1,188 hrs.; $99,103	

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: September 28, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21777 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2837–033]

Notice Soliciting Scoping Comments: Erie Boulevard Hydropower, LP

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2837–033.

c. *Date filed:* March 29, 2018.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Granby Hydroelectric Project.

f. *Location:* On the Oswego River in the town of Fulton in Oswego County, New York. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steven P. Murphy, Director, U.S. Licensing, Erie Boulevard Hydropower, L.P., 33 West 1st Street South, Fulton, NY 13069; (315) 598–6130.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov.*

j. *Deadline for filing scoping comments:* 30 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file scoping 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.* 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, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2837–033.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person 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.

k. This application is not ready for environmental analysis at this time.

l. Project Description

The existing Granby Hydroelectric Project (Granby Project) consists of: (1) An 88-foot-wide reinforced concrete intake structure that includes two bays containing trashracks and fixed-roller, vertical-lift type gates; (2) a 17-foot-wide sluice opening adjacent to the intake structure; (3) a 112-foot-long, 88-foot-wide powerhouse containing two 5.04-megawatt (MW) turbine-generator units, with a total capacity of 10.08 MW; (4) a 3,000-foot-long, 100-foot-wide tailrace; (5) two 4.16-kilovolt, 120-foot-long underground generator leads; (6) a 60-foot-long by 48-foot-wide electrical switchyard; and (7) appurtenant facilities.

The Granby Project is operated in a modified run-of-river mode. The Granby Project and the Fulton Development at Erie's Oswego River Hydroelectric Project (FERC Project No. 2474) are located at opposite ends of the same dam and share a single bypassed reach and reservoir. The flow and impoundment elevation requirements in the Oswego Project license,[1] which were based on a 2004 Offer of Settlement, affect the Granby Project. The average annual generation at the Granby Project is estimated to be 44,181 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or 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. For assistance, contact FERC Online Support. A copy is available for inspection and reproduction at the address in item h above.

n. 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.

o. Scoping Process

The Commission staff intends to prepare an Environmental Assessment (EA) for the Granby Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document 1 (SD1) issued on September 28, 2018.

Copies of SD1 outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of SD1 may be viewed on the web 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. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: September 28, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21776 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

[1] 109 FERC ¶ 62, 141 (2004).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–505–000]

Notice of Schedule for Environmental Review of the Texas Eastern Transmission, LP Cameron System Abandonment Project

On June 18, 2018, Texas Eastern Transmission, LP filed an application in Docket No. CP18–505–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(b) of the Natural Gas Act to abandon certain natural gas pipeline facilities. The

proposed project is known as the Cameron System Abandonment Project (Project), and would allow Texas Eastern to abandon the remainder of the Cameron System, which it can no longer adequately maintain with conventional maintenance techniques due to extremely low flows.

On June 29, 2018, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—October 25, 2018
90-day Federal Authorization Decision Deadline—January 23, 2019

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Texas Eastern proposes to abandon 62.3 miles of 30-inch-diameter pipeline, between the Grand Chenier Compressor Station in Cameron Parish, Louisiana to the end of the Cameron System in the shallow waters of the Gulf of Mexico in the West Cameron, East Cameron, and Vermillion offshore areas.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP18–505), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: October 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21773 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP17–20–000; CP17–21–000; CP17–21–001; CP18–7–000]

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Port Arthur Liquefaction Project, Texas Connector Project, and Louisiana Connector Project: Port Arthur LNG, LLC, PALNG Common Facilities Company LLC, Port Arthur Pipeline, LLC

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Port Arthur Liquefaction Project proposed by Port Arthur LNG, LLC and PALNG Common Facilities Company LLC (collectively referred to as PALNG), and the Texas Connector Project and Louisiana Connector Project proposed by Port Arthur Pipeline, LLC (PAPL) in the above-referenced dockets. PALNG requests authorization pursuant to section 3(a) of the Natural Gas Act (NGA) to construct and operate liquefied natural gas (LNG) export facilities in Jefferson County, Texas, and PAPL requests a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the NGA to construct, operate, and maintain certain natural gas pipeline facilities in Jefferson and Orange Counties, Texas and Cameron, Calcasieu, Beauregard, Allen, Evangeline, and St. Landry Parishes, Louisiana. Together, these proposed facilities are referred to as ''the Projects.''

The draft EIS assesses the potential environmental effects of the construction and operation of the Projects in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Projects, with the mitigation measures recommended in the EIS, would have some adverse environmental impact; however, these impacts would be avoided or reduced to less-than-significant levels.

The U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Department of Energy, U.S. Environmental Protection Agency, and the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. Although the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the Projects.

The draft EIS addresses the potential environmental effects of the construction and operation of the following proposed facilities:

- Two liquefaction trains, each with a capacity of 6.73 million tons per annum of LNG for export;
- Three LNG storage tanks, each with a capacity of 160,000 cubic meters;
- A refrigerant storage area and truck unloading facilities;
- A condensate storage area and truck loading facilities;
- A new marine slip with two LNG vessel berths, an LNG vessel and support vessel maneuvering area, and an LNG transfer system;
- A materials off-loading facility and Pioneer Dock;
- Approximately 34.2 miles of 42-inch-diameter pipeline to bring feed gas from interconnections with Kinder Morgan Louisiana Pipeline LLC, Natural Gas Pipeline Company of America, Houston Pipeline Company LP, Texas Eastern Transmission, LP (TETCO), Florida Gas Transmission Company, LLC, and Golden Triangle Storage, Inc./Centana Intrastate Pipeline, LLC to the terminal site;
- Approximately 130.8 miles of 42-inch-diameter pipeline to bring feed gas from interconnections with Centana Interstate Pipeline, LP, TETCO, Tennessee Gas Pipeline Company, Market Hub Partners—Egan, Pine Prairie Energy Center, Texas Gas Transmission, LLC, ANR Pipeline Company, and Columbia Gulf Transmission, LLC to the terminal site;
- Three compressor stations;
- Meter stations at the pipeline interconnects; and
- Other associated utilities, systems, and facilities (yards, access roads, etc.).

The Commission mailed a copy of the *Notice of Availability* to federal, state,

and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The draft EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the Environmental Documents page (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). In addition, the draft EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://www.ferc.gov/docs-filing/elibrary.asp*), click on General Search, and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP17–20, CP17–21, or CP18–7). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any person wishing to comment on the draft EIS may do so. Your comments should focus on draft EIS's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on November 19, 2018.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister*.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Projects docket numbers (CP17–20–000, CP17–21–000, and CP18–7–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment sessions its staff will conduct in the Projects area to receive comments on the draft EIS, scheduled as follows:

Date and time	Location
Tuesday, October 16, 2018, 4:00–7:00 p.m. local time.	Coushatta Golf Course, Veranda Room, 777 Koasati Dr., Kinder, LA 70648, 337–738–4777.
Wednesday, October 17, 2018, 4:00–7:00 p.m. local time.	Hampton Inn & Suites, Meeting Room, 7660 Memorial Blvd., Port Arthur, TX 77642, 409–722–6999.
Thursday, October 18, 2018, 4:00–7:00 p.m. local time.	Holiday Inn Lake Charles W—Sulphur, Ballrooms 1, 2, and 3, 330 Arena Rd., Sulphur, LA 70665, 337–527–0858.

The primary goal of these comment sessions is to have you identify the specific environmental issues and concerns with the draft EIS. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments in a convenient way during the timeframe allotted.

Each scoping session is scheduled from 4:00 p.m. to 7:00 p.m. local time. You may arrive at any time after 4:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 7:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 6:30 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your verbal comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that verbal comments hold the same weight as written or electronically submitted comments. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214). Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp*. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Questions?

Additional information about the Projects is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: September 28, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21778 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2837–033]

Erie Boulevard Hydropower, L.P.; Notice of Application Accepted for Filing and Soliciting 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. *Type of Application:* New Major License.

b. *Project No.:* 2837–033.

c. *Date filed:* March 29, 2018.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Granby Hydroelectric Project.

f. *Location:* On the Oswego River in the town of Fulton in Oswego County, New York. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Steven P. Murphy, Director, U.S. Licensing, Erie Boulevard Hydropower, L.P., 33 West 1st Street South, Fulton, NY 13069; (315) 598–6130.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov*.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.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, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2837–033.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person 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.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The existing Granby Hydroelectric Project (Granby Project) consists of: (1) An 88-foot-wide reinforced concrete intake structure that includes two bays containing trashracks and fixed-roller, vertical-lift type gates; (2) a 17-foot-wide sluice opening adjacent to the intake structure; (3) a 112-foot-long, 88-foot-wide powerhouse containing two 5.04-megawatt (MW) turbine-generator units, with a total capacity of 10.08 MW; (4) a 3,000-foot-long, 100-foot-wide tailrace; (5) two 4.16-kilovolt, 120-foot-long underground generator leads; (6) a 60-foot-long by 48-foot-wide electrical switchyard; and (7) appurtenant facilities.

The Granby Project is operated in a modified run-of-river mode. The Granby Project and the Fulton Development at Erie's Oswego River Hydroelectric Project (FERC Project No. 2474) are located at opposite ends of the same dam and share a single bypassed reach and reservoir. The flow and impoundment elevation requirements in the Oswego Project license,[1] which were based on a 2004 Offer of Settlement, affect the Granby Project. The average annual generation at the Granby Project is estimated to be 44,181 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or 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. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

n. 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.

o. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

p. *Updated procedural schedule and final amendments:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Scoping Document 1—September 2018

Comments on Scoping Document 1 due—October 2018

Issue Scoping Document 2 (if necessary)—December 2018

Issue Notice of Ready for Environmental Analysis—February 2019

Deadline for Filing Comments, Recommendations and Agency Terms and Conditions/Prescriptions—April 2019

Commission issues EA—October 2019

Comments on EA—November 2019

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance

[1] 109 FERC ¶ 62, 141 (2004).

date of the notice of ready for environmental analysis.

Dated: September 28, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21775 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2413–125]

Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests: Georgia Power Company

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters—Sand Mine.

b. *Project No.:* 2413–125.

c. *Date Filed:* August 20, 2018.

d. *Applicant:* Georgia Power Company (licensee).

e. *Name of Project:* Wallace Pumped Storage Hydroelectric Project.

f. *Location:* The proposed non-project sand mine is located in the northern part of Lake Oconee, the project reservoir, in Greene County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Herbie Johnston, Hydro General Manager, 600 North 18th Street, Bin 16N–8180, Birmingham, AL 35203.

i. *FERC Contact:* Michael Calloway at 202–502–8041, or *michael.calloway@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and 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.* 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, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2413–125.

k. *Description of Request:* The license filed a request to permit a non-project use of project lands and waters to allow Greenbriar Sand Company to dredge a 334 acre area of the upper project reservoir in Greene County, Georgia for the purposes of commercial sand mining. The mine operator expects the year round operation of the sand mine will extract approximately 1.1 million tons of sediment per year for 25 years.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling 202–502–8371. This filing may also 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 866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call 202–502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *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. 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.

o. *Filing and Service of Responsive 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 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 and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the non-project use application. Agencies may obtain copies of plans directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener 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. A copy of all other filings in reference to this application 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 4.34(b) and 385.2010.

Dated: October 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21779 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD18–14–000]

Wallowa Resources Community Solutions Inc.; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On September 26, 2018, the Wallowa Resources Community Solutions Inc., filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Arrowhead Pipeline Hydro Station Project would have an installed capacity of 61 kilowatts (kW), and would be located on the existing Arrowhead Irrigation Pipeline. The project would be located near the Township of Joseph in Wallowa County, Oregon.

Applicant Contact: Kyle Petrocine, Wallowa Resources Community Solutions Inc., 401 NE 1st Street,

Enterprise, OR 97828, Phone No (541) 398–0018, email: *kyle@wallowaresources.org.*

FERC Contact: Robert Bell, Phone No. (202) 502–6062; Email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A single turbine and induction generator connected to an existing irrigation pipeline with a total generating capacity of 61 kW, and (2) appurtenant facilities. The proposed project would have an estimated annual generation of 87 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ..	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed Arrowhead Pipeline Hydro Station Project will not interfere with the primary purpose of the conduit, which is to transport water for irrigation to ranches and farm in Oregon's Southern Alder Slope Valley. Therefore, based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions To Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and 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.* 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, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. A copy of all other filings in reference to this application 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 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*i.e.,* CD18–14) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

[1] 18 CFR 385.2001–2005 (2017).

Dated: October 1, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–21772 Filed 10–5–18; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, October 11, 2018 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC (12th Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes for September 6, 2018

Draft Advisory Opinion 2018–12: Defending Digital Campaigns, Inc.

Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and

Clerk, at (202)694–1040, at least 72 hours prior to the meeting date.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2018–22036 Filed 10–4–18; 4:15 pm]

BILLING CODE 6715–01–P

GOVERNMENT PUBLISHING OFFICE

Meeting of the Depository Library Council to the Acting Deputy Director

The Depository Library Council (DLC) to the Acting Deputy Director, Government Publishing Office (GPO) will meet on Monday, October 22, 2018 through Wednesday, October 24, 2018 in Arlington, Virginia. The sessions will take place from 8:00 a.m. to 5:30 p.m., Monday and Tuesday and 8:00 a.m. to 11:30 p.m., on Wednesday. The meeting will be held at the Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia. The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public. The United States Government Publishing Office is in compliance with the requirements of Title III of the Americans with Disabilities Act and meets all Fire Safety Act regulations.

Herbert H. Jackson, Jr.,

Acting Deputy Director, U.S. Government Publishing Office.

[FR Doc. 2018–21418 Filed 10–5–18; 8:45 am]

BILLING CODE 1520–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Uniform Project Description (UPD) Program Narrative Format for Discretionary Grant Application Forms.

OMB No.: 0970–0139.

Description: The proposed information collection would renew the Administration for Children and Families (ACF) Uniform Project Description (UPD). The UPD provides a uniform grant application format for applicants to submit project information in response to ACF discretionary funding opportunity announcements. ACF uses this information, along with other OMB-approved information collections (Standard Forms), to evaluate and rank applications. Use of the UPD helps to protect the integrity of ACF's award selection process. All ACF discretionary grant programs are required to use this application format. The application consists of general information and instructions; the Standard Form 424 series, which requests basic information, budget information, and assurances; the Project Description that requests the applicant to describe how program objectives will be achieved; and other assurances and certifications. Guidance for the content of information requested in the Uniform Project Description is based in 45 CFR 75.203, 75.204, and 45 CFR part 75, Appendix I.

Respondents: Applicants to ACF Discretionary Funding Opportunity Announcements.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF Uniform Project Description (UPD)	4,168	1	60	250,080

Estimated Total Annual Burden Hours: 202,505.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–21766 Filed 10–5–18; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3479]

Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Anesthetic and Analgesic Drug Products Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on November 15, 2018, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–3479. The docket will close on November 14, 2018. Submit either electronic or written comments on this public meeting by November 14, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 14, 2018. The *https://*

www.regulations.gov electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 14, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before October 31, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

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–2018–N–3479 for ''Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for 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.

• 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.'' FDA 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 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 the 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.gpo.gov/fdsys/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.

FOR FURTHER INFORMATION CONTACT: Moon Hee V. Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *AADPAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss the assessment of opioid analgesic sparing outcomes in clinical trials of acute pain. The committee will be asked to comment on the trial design and endpoints of these studies and how to determine the clinical relevance of the results.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before October 31, 2018, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 23, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact

person will notify interested persons regarding their request to speak by October 24, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Moon Hee V. Choi (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 2, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21809 Filed 10–5–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3467]

Joint Meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice, establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee. The general function of the committees is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on November 14, 2018, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions about FDA Advisory Committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–3467. The docket will close on November 13, 2018. Submit either electronic or written comments on this public meeting by November 13, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 13, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 13, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before October 30, 2018, will be provided to the committees. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

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–2018–N–3467 for ''Joint Meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for 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.

- 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.'' FDA 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 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 the 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.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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FOR FURTHER INFORMATION CONTACT: Moon Hee V. Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *AADPAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committees will discuss new drug application (NDA) 209774, for an immediate-release oral tablet formulation of oxycodone, which is intended to resist common methods of physical or chemical manipulation and to deter intravenous and intranasal abuse, submitted by SpecGx Inc., for the management of pain severe enough to require an opioid analgesic and for which alternative treatments are inadequate. The committees will also be asked to determine whether the Applicant adequately demonstrated that the abuse-deterrent properties of the proposed product are sufficient to include this information in the product label, and whether the product should be approved.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before October 30, 2018, will be provided to the committees. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 22, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 23, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

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FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 2, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–21810 Filed 10–5–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Charter Renewal for the Council on Graduate Medical Education

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS is hereby giving notice that the Council on Graduate Medical Education (COGME) has been rechartered. The date the renewed charter took effect is September 30, 2018.

FOR FURTHER INFORMATION CONTACT: Kennita R. Carter, MD, Designated Federal Official, COGME at 301–945–3505 or email at *kcarter@hrsa.gov.* A copy of the current committee membership, charter, and reports can be obtained by accessing the website *http://www.hrsa.gov/advisory committees/bhpradvisory/COGME/index.html.*

SUPPLEMENTARY INFORMATION: COGME provides advice and recommendations to the Secretary of the Department of Health and Human Services (Secretary), the Senate Committee on Health, Education, Labor and Pensions, and the U.S. House of Representatives Committee on Energy and Commerce on matters concerning the supply and distribution of physicians in the United States, physician workforce trends, training issues, financing policies and other matters of significance concerning graduate medical education, as specified by section 762 of the Public Health Service (PHS) Act, as amended. Additionally, COGME encourages entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council; develops, publishes, and implements performance measures and longitudinal evaluations; and recommends appropriation levels for certain PHS Act Title VII programs. The charter renewal for COGME was approved on September 30, 2018, which will also stand as the filing date. Renewal of the COGME charter gives authorization for the Council to operate until September 30, 2020.

A copy of the COGME charter is available on the COGME website at: *https://www.hrsa.gov/advisory-committees/graduate-medical-edu/index.html.* A copy of the charter can also be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The website for the FACA database is *http://www.facadatabase.gov/.*

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–21864 Filed 10–5–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Performance Review Board Members

Title 5, U.S.C. Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register**.

The following persons may be named to serve on the Performance Review Boards or Panels, which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services.

Employee last name	Employee first name
Barry	Daniel
Brady	William
Brown	Mark
Coquis	Roberto
Fantinato	Jessica
Fischmann	Elizabeth
Gentile	John
Goldhaber	Ben
Hargan	Eric
Haseltine	Amy
Kretschmaier	Michon
Lewis	Lisa
McDaniel	Eileen
Novy	Steve
Rowell	Scott
Sample	Allen
Skeadas	Christos
Tobias	Constance

Dated: October 1, 2018.

Charles H. McEnerney III,

Director, Executive and Scientific Resources Division.

[FR Doc. 2018–21855 Filed 10–5–18; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Clinical Care Commission

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The National Clinical Care Commission (the Commission) will conduct its inaugural meeting on October 31, 2018. The Commission will evaluate and make recommendations to the U.S. Department of Health and Human Services (HHS) Secretary and Congress regarding improvements to the coordination and leveraging of federal programs related to awareness and clinical care for complex metabolic or autoimmune diseases that result from issues related to insulin that represent a significant disease burden in the United States, which may include complications due to such diseases.

DATES: The meeting will take place on October 31, 2018, from 8:00 a.m. to approximately 5:00 p.m. Eastern Time (ET).

ADDRESSES: National Institutes of Health, Building 35, John Edward Porter Neuroscience Research Center [PNRC II], 35 Convent Drive, Bethesda, MD 20892. The meeting will also be held online via webcast. To register to attend the meeting, please visit the registration website at *https://events.kauffmaninc.com/events/ncccmeetingone/.*

FOR FURTHER INFORMATION CONTACT: Clydette Powell, Designated Federal Official, National Clinical Care Commission, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Suite LL–100, Rockville, MD 20852. Email: *OHQ@hhs.gov.* Additional information may be obtained at *https://health.gov/hcq/national-clinical-care-commission.asp.*

SUPPLEMENTARY INFORMATION: The National Clinical Care Commission Act (Pub. L. 115–80) requires the HHS Secretary to establish the National Clinical Care Commission. The Commission will consist of representatives of specific federal agencies and non-federal individuals and entities who represent diverse disciplines and views. The Commission will evaluate and make recommendations to the HHS Secretary and Congress regarding improvements to the coordination and leveraging of federal programs related to awareness and clinical care for complex metabolic or autoimmune diseases that result from issues related to insulin that represent a significant disease burden in the United States, which may include complications due to such diseases.

This inaugural meeting of the Commission will consist of swearing-in non-federal Commission members, an overview of various federal interagency efforts surrounding diabetes programs, the establishment of the Commission subcommittee structure, and setting future agenda topics. The names and biographies of the Commission members and final meeting agenda will be available prior to the meeting at *https://health.gov/hcq/national-clinical-care-commission.asp.*

Public Participation at Meeting: The Commission invites public comment on issues related to the Commission's charge either in-person at the meeting or in writing. In-person attendees who plan to provide oral comments at the Commission meeting during a designated time must submit their comments to *OHQ@hhs.gov* on or before October 24, 2018 and must check-in on-site. To accommodate as many individuals as possible, the time for each comment will be limited to three minutes. If more requests are received than can be accommodated, speakers will be randomly selected. The nature of the comments will not be considered in making this selection. Written comments are welcome throughout the entire development process of the Commission and may be emailed to *OHQ@hhs.gov*, or by mail to the following address: Public Commentary, National Clinical Care Commission, 1101 Wootton Parkway, Suite LL–100, Rockville, MD 20852. Written comments should not exceed three pages in length.

To attend the Commission meeting, individuals must pre-register at the registration website at *https://events.kauffmaninc.com/events/ncccmeetingone/.* In-person and live videocast attendance options are available. In-person attendance at the meeting is limited to space available. In-person registrations will be accepted until maximum capacity is reached and must be completed by October 25, 2018. On the day of the meeting, seating will be provided first to persons who have pre-registered. Those who have not pre-registered will be accommodate on a first come, first served basis if additional seats are still available 10 minutes before the meeting start. Individuals who need special assistance, such as sign language

interpretation or other reasonable accommodations, should indicate the special accommodation when registering online or by notifying Jennifer Gillissen at *jennifer.gillissen@kauffmaninc.com* by October 25.

Authority: The National Clinical Care Commission is required under the National Clinical Care Commission Act (Pub. L. 115–80). The Commission is governed by provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C., App.) which sets forth standards for the formation and use of federal advisory committees.

Dated: October 1, 2018.

Don Wright,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion).

[FR Doc. 2018–21854 Filed 10–5–18; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov.* Licensing information and copies of the patent applications listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Attenuated Human Parainfluenza Virus Type 1 Expressing Ebola Virus Glycoprotein GP as an Intranasal Ebola Vaccine

Description of Technology: Ebola virus (EBOV) hemorrhagic fever is one of the most lethal viral infections and lacks a licensed vaccine. EBOV is transmitted by contact with body fluids from infected individuals including droplets or aerosols. Aerosolized EBOV could also be exploited for intentional virus spread. Therefore, vaccines that protect against mucosal and systemic exposure are needed.

The NIH/NIAID has developed recombinant human parainfluenza virus type 1 (rHPIV1) bearing a stabilized attenuating mutation in the P/C gene to express the membrane-anchored form of EBOV glycoprotein GP as an intranasal (IN) EBOV vaccine. GP was codon optimized and expressed either as a full-length protein or a chimeric form in which its transmembrane and cytoplasmic tail (TMCT) domains were substituted with those of the HPIV1 F protein in an effort to increase packaging into the vector particle and enhance immunogenicity. GP was inserted either preceding the N gene (pre-N) or between the N and P genes (N-P) of rHPIV1. All vectors replicated to high titers in vitro and had stable GP expression. Viruses were attenuated and replicated at low titers in the respiratory tract of African green monkeys. Two doses of candidates expressing GP from the pre-N position elicited higher GP neutralizing serum antibody titers than the N-P viruses, and unmodified GP induced higher levels than its TMCT counterpart. Unmodified EBOV GP was packaged into the HPIV1 particle, and the TMCT modification did not increase packaging or immunogenicity. Overall, the candidate expressing full-length GP from the Pre-N position was the most immunogenic.

This invention relates to an attenuated and immunogenic IN vaccine candidate expected to be well tolerated in humans and is available for clinical evaluation.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications:

- Viral diagnostics
- Vaccine research

Competitive Advantages:

- Ease of manufacture
- Bivalent or Multivalent live attenuated vaccines
- B cell and T cell activation
- Low-cost vaccines
- Intranasal administration/needle-free delivery

Development Stage:

- In vivo data assessment (animal)

Inventors: Shirin Munir (NIAID), Matthias Lingemann (NIAID), Ursula Buchholz (NIAID), Peter Collins (NIAID).

Publications: ''Attenuated Human Parainfluenza Virus Type 1 Expressing Ebola Virus Glycoprotein GP Administered Intranasally Is Immunogenic in African Green Monkeys,'' Lingemann M, Liu X, Surman S, Liang B, Herbert R, Hackenberg AD, Buchholz UJ, Collins PL, Munir S. J Virol. 2017 Apr 28;91(10). pii: e02469–16. doi: 10.1128/JVI.02469–16. Print 2017 May 15. PMID: 28250127.

Intellectual Property: HHS Reference No. E–142–2018/0.

Licensing Contact: Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov.*

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize for development of a vaccine for respiratory or other infections. For collaboration opportunities, please contact Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov.*

Dated: September 25, 2018.

Suzanne M. Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2018–21768 Filed 10–5–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov.* Licensing information and copies of the patent applications listed below may be

obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Hybridoma Cell Lines Producing Antibodies to RSV NS1

Description of Technology: This technology provides a new set of hybridoma cell lines each expressing a single monoclonal antibody against human respiratory syncytial virus (RSV) nonstructural protein 1 (NS1). These antibodies have variously been shown to detect NS1 protein in an enzyme-linked immunosorbent assay (ELISA), Western blot assay, immunofluorescence microscopy of paraformaldehyde-fixed cells, and flow cytometry. The various antibodies can vary in their efficiency in each of these assays. This technology provides a unique set of qualified monoclonal antibodies against RSV NS1 protein which currently do not exist. These antibodies and cell lines may be of interest to any persons investigating RSV infection processes, particularly as it relates to the activity of NS1 in such an infection process.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications:

- Viral diagnostics
- Vaccine research

Competitive Advantages:

- Ease of manufacture
- Unique research tool

Development Stage:

- *In vitro* data assessment

Inventors: Thomas McCarty (NIAID), Joseph Marcotrigiano (NIAID), Peter Collins (NIAID).

Publications: None.

Intellectual Property: HHS Reference No. E–018–2018/0—U.S. Provisional Application No. 62/661,320, filed April 23, 2018 (pending).

Licensing Contact: Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov.*

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize for development of a vaccine for respiratory or other infections. For collaboration opportunities, please contact Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov.*

Dated: September 25, 2018.

Suzanne M. Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2018–21764 Filed 10–5–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Barry Buchbinder, Ph.D., 240–627–3678; *barry.buchbinder@nih.gov.* Licensing information and copies of the U.S. patent application listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD, 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

HIV–1 Env Fusion Peptide Immunogens and Their Use

Description of Technology: Millions of people are infected with HIV–1 worldwide, and 2.5 to 3 million new infections have been estimated to occur yearly. Although effective antiretroviral therapies are available, millions succumb to AIDS every year, especially in Sub-Saharan Africa, underscoring the need to develop measures to prevent the spread of this disease.

HIV–1 is an enveloped virus, which hides from humoral recognition behind a wide array of protective mechanisms. During infection, the major envelope protein of HIV–1 is cleaved by host cell proteases into two smaller versions (gp120 and gp41). Together gp120 and gp41 make up the HIV–1 Env spike, which is a target for neutralizing antibodies. It is believed that immunization with an effective immunogen based on the HIV–1 Env glycoprotein can elicit a neutralizing response, which may be protective against HIV–1 infection.

Researchers at the Vaccine Research Center (VRC) of the National Institute of Allergy and Infectious Diseases used knowledge from the crystal structure of an HIV–1 neutralizing antibody, VRC34.01, in complex with its epitope on the HIV–1 Env trimer, to develop novel immunogens. HIV–1 uses a fusion peptide, located at the N-terminus of the gp41 subunit, to fuse with a target cell to infect the cell. The crystal structure revealed the epitope recognized by VRC34.01 to be composed primarily of the exposed 8 residues of the fusion peptide at the N-terminus of the gp41 subunit. Researchers designed fusion peptide immunogens that were comprised of the exposed residues of the fusion peptide coupled to highly immunogenic carrier proteins to focus the immune response to this conserved site of vulnerability. The fusion peptide can be displayed on scaffold proteins and—when coupled to HIV–1 Env trimer boosts—has the potential to elicit antibodies capable of neutralizing diverse HIV–1 strains in mice, guinea pigs and rhesus macaques, and might therefore serve as the basis for an effective HIV vaccine.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404.

Potential Commercial Applications:

HIV–1 vaccine

Competitive Advantages:

Potential to be a broadly neutralizing HIV–1 vaccine

Development Stage: In vivo testing (rodents and non-human primates).

Inventors: Peter Kwong (NIAID), John Mascola (NIAID), Kai Xu (NIAID), Rui Kong (NIAID), Tongqing Zhou (NIAID), Li Ou (NIAID), Cheng Cheng (NIAID), Wing-Pui Kong (NIAID), Gwo-Yu Chuang (NIAID), Kevin Liu (NIAID), Michael Gordon Joyce (NIAID), Yongping Yang (NIAID), Baoshan Zhang (NIAID)

Publications:

(a) Kong, Rui, et al. ''Fusion peptide of HIV–1 as a site of vulnerability to

neutralizing antibody.'' *Science* 352.6287 (2016): 828–833.

(b) Xu, Kai, et al. ''Epitope-based vaccine design yields fusion peptide-directed antibodies that neutralize diverse strains of HIV–1.'' *Nature Medicine* 24, 857–867 (2018).

Intellectual Property: HHS Reference Number E–279–2016 includes U.S. Provisional Patent Application Number 62/403,266 filed 10/03/2016 and PCT Application Number PCT/US2017/054959 filed 10/03/2017 (pending).

Licensing Contact: Barry Buchbinder, Ph.D., 240–627–3678; *barry.buchbinder@nih.gov*

Dated: September 25, 2018.

Suzanne M. Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2018–21762 Filed 10–5–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov*. Licensing information and copies of the patent applications listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD, 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Recombinant RSV B1 Expressing eGFP as a Reporter Gene

Description of Technology: The inventors have created a reverse genetics system for RSV strain B1 of antigenic subgroup B encoding a replication-competent recombinant RSV that contains a codon-optimized G ORF and expresses enhanced green fluorescence protein (GFP). There are two antigenic subgroups of RSV, subgroups A and B, and most of the available information and reagents are for subgroup A. Immunity against either subgroup has reduced effectiveness in restricting the heterologous subgroup, suggesting that an effective RSV vaccine might need to contain both subgroups. The sequence of the wild type G gene was refractory to cloning into full-length antigenomic cDNA in *E. coli,* and so the inventors made and successfully used a codon optimized version. In addition, the inventors inserted an eGFP gene into the first gene position (promoter proximal). The resulting virus is replication-competent and efficiently expresses GFP in infected cells. This virus can be used as a tool to detect RSV-neutralizing antibodies to RSV subgroup B in a plaque-reduction assay. It also can be used to evaluate RSV infection in vitro and in vivo using GFP fluorescence to track infection. The antigenomic cDNA clone also provides the starting material for making live-attenuated subgroup B-specific RSV vaccine candidates containing defined mutations. These defined mutations can include ones that we previously developed for RSV subgroup A, and include stabilized point mutations, stabilized codon-deletions, and gene-deletions.

The present invention provides a reverse genetics system encoding strain B1 of RSV subgroup B containing a codon-optimized G ORF and encoding eGFP. This provides a tool for RSV subgroup B serology assays, for tracking RSV infection, and a starting point for making attenuated subgroup B strains for vaccine purposes.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications:

- Viral diagnostics
- Vaccine research
- Serology assays
- Vaccine manufacture

Competitive Advantages:

- Ease of manufacture
- Unique research tool

Development Stage:

- *In vitro* data assessment

Inventors: Ursula Buchholz (NIAID), Peter Collins (NIAID).

Publications: None.

Intellectual Property: HHS Reference No. E–159–2018–0.

Licensing Contact: Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov*.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize for development of a vaccine for respiratory or other infections. For collaboration opportunities, please contact Peter Soukas, J.D., 301–594–8730; *peter.soukas@nih.gov*.

Dated: September 25, 2018.

Suzanne M. Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2018–21767 Filed 10–5–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Generic Clearance To Conduct Voluntary Customer/Partner Surveys (NLM)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of

the data collection plans and instruments, contact: contact: David Sharlip, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number 301–827–6361 or email your request to *sharlipd@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on July 20, 2018, pages 34599–34600 (83 FR 34599–34600) and allowed 60 days for public comment. NLM received one comment in response to the 60-Day **Federal Register** Notice. The purpose of this notice is to allow an additional 30 days for public comment. The National Library of Medicine (NLM), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Generic Clearance to Conduct Voluntary Customer/Partner Surveys (NLM), 0925–0476, Expiration Date 09/30/2018, REINSTATEMENT WITHOUT CHANGE, National Library of Medicine (NLM), National Institutes of Health (NIH).

Need and Use of Information Collection: In 1994, the NLM was designated a ''Federal Reinvention Laboratory'' with a major objective of improving its methods of delivering information to the public. At a minimum, necessary elements in improving the delivery of information include: (1) Development of easy-to-use access and delivery mechanisms that promote the public's understanding of health information, drawing on research in lay terminology, graphical and multimedia presentations; (2) assisting those providing health information to the public to make effective use of electronic services through internet connections, training, and other means, with an emphasis on those serving minority groups, low income populations, and seniors; (3) promoting integrations of NLM services with other electronic services covering regional, state, or local health information; and (4) conducting and supporting research, development, and evaluation of the public's health information needs, information seeking behavior and learning styles, information systems that meet the public's needs, and the impact of access to information.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 750.

ESTIMATED ANNUALIZED BURDEN HOURS

Table A.12–1 Estimates of Annual Burden Hours

Type of collection	Type of respondents	Number of respondents	Annual frequency per response	Average time per response (minutes/hour)	Total burden hours
Customer Satisfaction Surveys	General Public	1,000	1	20/60	333
Focus Groups	Health Professionals	500	1	15/60	125
Usability and Pilot Testing	Librarians	500	1	20/60	167
Interviews or Small Discussion Groups	Health Educators	500	1	15/60	125
Total		2,500	2,500		750

Dated: September 21, 2018.

David H. Sharlip,

Project Clearance Liaison, National Library of Medicine, National Institutes of Health.

[FR Doc. 2018–21818 Filed 10–5–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3395–EM; Docket ID FEMA–2018–0001]

Florida; Amendment No. 3 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Florida (FEMA–3395–EM), dated October 8, 2017, and related determinations.

DATES: The change occurred on August 29, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. McCool, of FEMA is appointed to act as the Federal Coordinating Officer for this emergency.

This action terminates the appointment of Allan Jarvis as Federal Coordinating Officer for this emergency.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–21792 Filed 10–5–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4337–DR; Docket ID FEMA–2018–0001]

Florida; Amendment No. 16 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4337–DR), dated September 10, 2017, and related determinations.

DATES: The change occurred on August 29, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. McCool, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Allan Jarvis as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–21790 Filed 10–5–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4394–DR; Docket ID FEMA–2018–0001]

South Carolina; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA–4394–DR), dated September 16, 2018, and related determinations.

DATES: This amendment was issued September 25, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 16, 2018.

Chesterfield County for Individual Assistance.

Chesterfield, Darlington, Florence, and Sumter Counties for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–21789 Filed 10–5–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2018–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to

section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance'')

David I. Maurstad,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado:					
Arapahoe (FEMA Docket No.: B–1840).	City of Aurora (18–08–0169P).	The Honorable Steve Hogan, Mayor, City of Aurora, 15151 East Alameda Parkway, 5th Floor, Aurora, CO 80012.	Engineering Department, 15151 East Alameda Parkway, Suite 3200, Aurora, CO 80012.	September 17, 2018	080002
Arapahoe (FEMA Docket No.: B–1840).	City of Centennial (18–08–0169P).	The Honorable Stephanie Piko, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 76 Inverness Drive East, Suite A, Englewood, CO 80112.	September 17, 2018	080315
Arapahoe (FEMA Docket No.: B–1840).	Unincorporated areas of Arapahoe County (18–08–0169P).	The Honorable Jeff Baker, Chairman, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	September 17, 2018	080011
Florida:					
Alachua (FEMA Docket No.: B–1834).	Unincorporated areas of Alachua County (18–04–2705X).	The Honorable Lee Pinkoson, Chairman, Alachua County Board of Commissioners, 12 Southeast 1st Street, Gainesville, FL 32601.	Alachua County Public Works Department, 5620 Northwest 120th Lane, Gainesville, FL 32653.	September 7, 2018	120001
Collier (FEMA Docket No.: B–1840).	City of Naples (18–04–3246P).	The Honorable Bill Barnett, Mayor, City of Naples, 735 8th Street South, Naples, FL 34102.	Building Department, 295 Riverside Circle, Naples, FL 34102.	September 12, 2018	125130
Pinellas (FEMA Docket No.: B–1840).	Town of Indian Shores (18–04–2638P).	The Honorable Patrick Soranno, Mayor, Town of Indian Shores, 19305 Gulf Boulevard, Indian Shores, FL 33785.	Building Department, 19305 Gulf Boulevard, Indian Shores, FL 33785.	September 17, 2018	125118
Sarasota (FEMA Docket No.: B–1834).	Unincorporated areas of Sarasota County (18–04–2561P).	The Honorable Nancy Detert, Chair, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Building and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	September 10, 2018	125144
Georgia:					
Catoosa (FEMA Docket No.: B–1840).	City of Fort Oglethorpe (18–04–2533P).	The Honorable Earl Gray, Mayor, City of Fort Oglethorpe, 500 City Hall Drive, Fort Oglethorpe, GA 30742.	Building, Planning and Zoning Department, 500 City Hall Drive, Fort Oglethorpe, GA 30742.	September 13, 2018	130248
Catoosa (FEMA Docket No.: B–1840).	Unincorporated areas of Catoosa County (18–04–2533P).	The Honorable Steven Henry, Chairman, Catoosa County Board of Commissioners, 800 Lafayette Street, Ringgold, GA 30736.	Catoosa County Planning and Inspections Department, 184 Tiger Trail, Ringgold, GA 30736.	September 13, 2018	130028
Mississippi:					
Rankin (FEMA Docket No.: B–1840).	City of Brandon (18–04–0648P).	The Honorable Butch Lee, Mayor, City of Brandon, 1000 Municipal Drive, Brandon, MS 39042.	City Hall, 1000 Municipal Drive, Brandon, MS 39042.	September 14, 2018	280143
Rankin (FEMA Docket No.: B–1840).	City of Pearl (18–04–0648P).	The Honorable Jake Windham, Mayor, City of Pearl, 2420 Old Brandon Road, Pearl, MS 39208.	Community Development Department, 2420 Old Brandon Road, Pearl, MS 39208.	September 14, 2018	280145
New Mexico:					
Bernalillo (FEMA Docket No.: B–1840).	City of Albuquerque (18–06–0370P).	The Honorable Tim Keller, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Development Review Services Division, 600 2nd Street Northwest, Albuquerque, NM 87102.	September 12, 2018	350002
Bernalillo (FEMA Docket No.: B–1840).	Unincorporated areas of Bernalillo County (18–06–0370P).	Ms. Julie Morgas Baca, Bernalillo County Manager, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	September 12, 2018	350001
Ohio: Warren (FEMA Docket No.: B–1840).	City of Mason (17–05–6435P).	The Honorable Victor Kidd, Mayor, City of Mason, 6000 Mason Montgomery Road, Mason, OH 45040.	City Hall, 6000 Mason Montgomery Road, Mason, OH 45040.	September 10, 2018	390559

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Oklahoma: Tulsa (FEMA Docket No.: B–1834).	City of Tulsa (18–06–0745P).	The Honorable G.T. Bynum, Mayor, City of Tulsa, 175 East 2nd Street, 15th Floor, Tulsa, OK 74103.	Engineering Services Department, 2317 South Jackson Avenue, Tulsa, OK 74107.	September 10, 2018	405381
Rhode Island: Bristol (FEMA Docket No.: B–1840).	Town of Barrington (18–01–0572P).	Mr. James J. Cunha, Manager, Town of Barrington, 283 County Road, Barrington, RI 02806.	Town Hall, 283 County Road, Barrington, RI 02806.	September 6, 2018	445392
Texas:					
Bexar (FEMA Docket No.: B–1840).	City of San Antonio (17–06–3172P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	September 17, 2018	480045
Bexar (FEMA Docket No.: B–1840).	Unincorporated areas of Bexar County (18–06–0285P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	September 17, 2018	480035
Tarrant, (FEMA Docket No.: B–1834).	City of Fort Worth (17–06–0155P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works, Engineering Department, 200 Texas Street, Fort Worth, TX 76102.	September 10, 2018	480596
Tarrant (FEMA Docket No.: B–1834).	City of Saginaw (17–06–0155P).	The Honorable Todd Flippo, Mayor, City of Saginaw 333 West McLeroy Boulevard, Saginaw, TX 76179.	Public Works and Community Development Department, 205 Brenda Lane, Saginaw, TX 76179.	September 10, 2018	480610
Virginia:					
Prince William (FEMA Docket No.: B–1834).	City of Manassas (17–03–2321P).	Mr. William P. Pate, Manager, City of Manassas, 9027 Center Street, Suite 401, Manassas, VA 20110.	Department of Public Works and Engineering, 8500 Public Works Drive, Manassas, VA 20110.	September 13, 2018	510090
Prince William (FEMA Docket No.: B–1834).	Unincorporated areas of Prince William County (17–03–2321P).	Mr. Christopher E. Martino, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192.	Prince William County Department of Public Works, 5 County Complex Court, Prince William, VA 22192.	September 13, 2018	510119
Wyoming:					
Laramie (FEMA Docket No.: B–1840).	City of Cheyenne (17–08–1565P).	The Honorable Marian J. Orr, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Cheyenne, WY 82001.	Engineering Department, 2101 O'Neil Avenue, Cheyenne, WY 82001.	September 10, 2018	560030
Teton (FEMA Docket No.: B–1840).	Town of Jackson (18–08–0346P).	The Honorable Pete Muldoon, Mayor, Town of Jackson, P.O. Box 1687, Jackson, WY 83001.	Public Works Department, 450 West Snow King Avenue, Jackson, WY 83001.	September 13, 2018	560052
Teton (FEMA Docket No.: B–1840).	Unincorporated areas of Teton County (18–08–0346P).	The Honorable Mark Newcomb, Chairman, Teton County Board of Commissioners, P.O. Box 3594, Jackson, WY 83001.	Teton County Public Works Department, 320 South King Street, Jackson, WY 83001.	September 13, 2018	560094

[FR Doc. 2018–21928 Filed 10–5–18; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3385–EM; Docket ID FEMA–2018–0001]

Florida; Amendment No. 4 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Florida (FEMA–3385–EM), dated September 5, 2017, and related determinations.

DATES: The change occurred on August 29, 2018.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. McCool, of FEMA is appointed to act as the Federal Coordinating Officer for this emergency.

This action terminates the appointment of Allan Jarvis as Federal Coordinating Officer for this emergency.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2018–21791 Filed 10–5–18; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2018–0030]

Privacy Act of 1974; Computer Matching Program

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Notice of a Re-established Matching Program.

SUMMARY: As required by the Privacy Act of 1974, as amended, DHS/USCIS is issuing public notice of the re-establishment of a computer matching program between DHS, USCIS and the California Department of Social Services (CA–DSS), titled ''Verification Division DHS–USCIS/CA–DSS.''

DATES: This re-established matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. This matching program will be conducted for an initial term of 18 months (from approximately October 2018 to April 2020) and within 3 months of expiration may be renewed for one additional year if the parties make no substantive change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: You may submit comments, identified by docket number DHS–2018–0030, at:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Mail and Hand Delivery or Commercial Delivery:* U.S. Citizenship and Immigration Services, ATTN: Privacy Officer—Donald K. Hawkins, 20 Massachusetts Avenue NW, Washington, DC 20529.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and docket number DHS–2018–0030. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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

FOR FURTHER INFORMATION CONTACT: DHS Privacy Office Chief Privacy Officer Sam Kaplan at 202–343–1717.

SUPPLEMENTARY INFORMATION: The DHS–USCIS provides this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–108, 81 FR 94424 (December 23, 2016).

Participating Agencies: The Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS) is the source agency and the California Department of Social Services (CA–DSS) is the recipient agency.

Authority for Conducting the Matching Program: Section 121 of the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, 110 Stat. 2168 (1996), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits as specified within IRCA, and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to federal entitlement benefit programs. Section 121(c) requires state agencies administering these programs to use DHS–USCIS's verification system to make eligibility determinations in order to prevent the issuance of benefits to ineligible alien applicants. The Verification Information System (VIS) used by the DHS/USCIS Systematic Alien Verification for Entitlements (SAVE) Program is the DHS–USCIS system available to the CA–DSS and other covered agencies for use in making these eligibility determinations.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, 110 Stat. 3009 (1996) grants federal, state, or local government agencies seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency with the authority to request such information from DHS–USCIS for any purpose authorized by law.

CA–DSS will access information contained in the VIS as part of the SAVE Program for the purpose of confirming the immigration status of alien applicants for, or recipients of, benefits it administers to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act (42 U.S.C. 1320b–7(a) *et seq.*) and California Welfare and Institution Codes 11104.1, 14007.5 and 14011.2.

Purpose(s): To provide the CA–DSS with electronic access to immigration status information from federal immigration records contained within the DHS–USCIS VIS and covered by the SAVE Program. CA–DSS will use the SAVE Program VIS to verify the immigration status of non-U.S. citizens who apply for federal benefits (Benefit Applicants) under Temporary Assistance to Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) programs that it administers. CA–DSS will use the information obtained through the SAVE Program to determine whether benefit applicants possess the requisite immigration status to be eligible for the TANF and SNAP programs administered by CA–DSS.

Categories of Individuals: DHS–USCIS will provide the following to CA–DSS: Records in DHS–USCIS VIS and SAVE Program containing information related to the status of aliens and other persons on whom DHS–USCIS has a record as an applicant, petitioner, or beneficiary.

CA–DSS will provide the following to DHS–USCIS: CA–DSS records pertaining to alien and naturalized/derived United States citizen applicants for, or recipients of, entitlement benefit programs administered by the State.

Categories of Records: CA–DSS will match the following records with DHS–USCIS records:

- Alien Registration Number (A-Number)
- I–94 Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Nationality
- Social Security Number (SSN)

DHS–USCIS will match the following records with CA–DSS records:

- A-Number
- I–94 Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Country of Birth (not nationality)
- SSN (if available)
- Date of Entry
- Immigration Status Data
- Sponsorship Information (sponsor's full name, SSN, and address)

System of Records: DHS/USCIS–004 Systematic Alien Verification for Entitlements (SAVE) Systems of Records Notice, 81 FR 78619 (Nov. 8, 2016).

Philip S. Kaplan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2018–21780 Filed 10–5–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Senior Executive Service Performance Review Board

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service (SES) Performance Review Boards (PRBs) for the Department of Homeland Security (DHS). The purpose of the PRBs is to view and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of SES, Senior Level and Senior Professional positions of the Department.

DATES: This Notice is current as of October 9, 2018.

FOR FURTHER INFORMATION CONTACT: Julie Hart, Office of the Chief Human Capital Officer, *Julie.Hart@hq,dhs.gov*, or by telephone (202) 357–8163.

SUPPLEMENTARY INFORMATION: Each Federal agency is required to establish one or more performance review boards to make recommendations, as necessary, in regard to the performance of senior executives within the agency. 5 U.S.C. 4314(c). This notice announces the appointment of the members of the PRB for DHS. The purpose of the PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of SES positions within DHS.

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed below:

Agarwal, Nimisha
Albence, Matthew T.
Allen, Matthew C.
Alles, Randolph D.
Anderson, Rose J.
Anderson, Sandra D.
Annan, Niccomedo S.
Archambeault, Gregory J.
Ard, William P.
Asher, Nathalie R.
Auletta, Laura
Austin, Meredith L.
Awni, Muhammad H.
Ayala, Janice
Baber, Daniel M.
Bailey, Angela
Baker, Paul E.
Baran, Kathy A.
Baroukh, Nader
Barrera, Staci A.
Barrett, Lawrence R.
Beagles, James M.
Beckman, Paul G.
Bench, Bradford A.
Benner, Derek
Berger, Katrina W.
Bester-Markowitz, Margot
Bhagowalia, Sanjeev
Bible, Daniela
Blessey, Caroline
Blume, Mark Allen
Blumenthal, Jennifer
Bobich, Jeffrey M.
Borkowski, Mark S.
Boshears, Kevin
Bottom, David
Boyer, Stephen A.
Breor, Scott F.
Brown, A. Scott
Brown, Michael C.
Bruce, Melissa J.
Brundage, William
Bryan, Michelle C.
Bryan, Willliam N.
Bryson, Tony R.
Brzozowski, Crista M.
Bucholtz, Kathleen L.
Burns, Robert P.
Burriesci, Kelli A.
Busch, Philip B.
Caggiano, Marshall L.
Cahill, Donna
Caine, Jeffrey
Callahan, William J.
Calvo, Karl H.
Cameron, Michael K.
Campagnolo, Donna P.
Cantor, Jonathan R.
Carpio, Philip F.
Carraway, Melvin
Carrick, Patrick G.
Castro, Raul M.
Chaleki, Thomas D.
Chang, Hayley
Cheng, Wen-Tin
Ciccone, Christine
Clever Beaumont, Traci L.
Coller-Monarez, Susan
Colucci, Nicholas V.
Contreras, Patrick D.
Correa, Soraya
Cotter, Daniel
Courey, Marc B.
Cowan, Robert M.
Cox, Adam
Cox, Debra S.
Cribbs, Carol
Crumpacker, Jim H.
Cupp, Mary E.
Curda, Susan M.
Daitch, William
Davidson, Andrew J.
Davidson, Michael J.
Davis, Michael P.
Dawson, Inga I.
Decker, Thomas R.
Delgado, Jose L.
Dembling, Ross W.
DeNayer, Larry C.
DeStefano, Ernest
DiFalco, Frank J.
DiNanno, Thomas G.
DiPietro, Joseph R.
Dipippa, Kathy L.
Dolan, Edward
Dolan, Mark E.
Doolin, Joel
Dossie, Susie L.
Dougherty, Thomas E.
Driggers, Richard J.
Dugan, Moises S.
Dunbar, Susan
Duong, Anh N.
Early, Emily N.
Edwards, B. Roland
Emrich, Matthew D.
Erichs, Alysa D.
Evetts, Mark V.
Falk, Scott
Fallon, William
Fenton, Jennifer M.
Ferraro, Nina M.
Filipponi, Karen B.
Fischer, John W.
Fitzmaurice, Stacey D.
Flores, Simona L.
Flory, Gillian
Folden, Shane M.
Fox, Kathleen McDonald
Frazier, Sterling T.
Fujimura, Paul
Fulghum, Charles ''Chip'' H.
Gabbrielli, Tina
Gallagher, Sean W.
Gantt, Kenneth D.
Garnett, Patsy
Gersten, David
Gibbs, Michael D.
Glawe, David J.
Grable, Samuel D.
Grady, Claire
Gramlick, Carl
Greene, Jonathan
Groom, Molly
Guzman, Nicole
Hall, Christopher J.
Hall, Daniel F.
Hammersley, Bonnie M.
Hampton, Stephanie L.
Harris, Melvin
Harris, Steven E.
Havranek, John F.
Heinz, Todd W.
Hewitt, Ronald T.
Hickey, Gary
Higgins, Jennifer B.
Highsmith, AnnMarie
Hill, Marcus L.
Hochman, Kathleen T.
Hoefer, Michael D.
Holtermann, Keith
Holzer, James
Houser, David
Howard, Jr., Percy L.
Howard, Tammy
Humphries, Robert H.
Huron, Diana
Hutchison, Steven J.
Ileto, Carlene
Jacksta, Linda L.
James, Michele L.
Jenkins, Jr., Kenneth T.
Jennings, David W.
Jeronimo, Jose M.
Johnson, Claren
Johnson, James V.
Johnson, Tae D.
Joseph, James K.
Kaufman, Steven

Kelly, William G.
Kerner, Francine
Kerns, Kevin J.
King, Matthew H.
King, Tatum S.
Kirby, Lyn M.R.
Kirchner, Julie
Klein, Matthew
Klopp, Jacalynne B.
Kolbe, Kathryn L.
Kopel, Richard S.
Koumans, Mark R.
Kramar, John
Kronisch, Matthew L.
Kruger, Mary
Kuepper, Andrew
Kuhn, Karen A.
Lafferty, John L.
LaJoye, Darby R.
Landfried, Phillip A.
Lanum, Scott
Lechleitner, Patrick J.
Lederer, Calvin M.
Letowt, Philip J.
Lew, Kimberly D.
Lewis, Donald R.
Ley, Jennifer E.
Lilly, Tamara J.
Lipka, Daniel
Logan, Christopher P.
Loiacono, Adam
Lucero, Enrique M.
Luck, Scott A.
Lundgren, Karen E.
Macias, Joseph
Maher, Joseph
Manaher, Colleen M.
Mapar, Jalal
Marcott, Stacy
Martin, Joseph F.
Maughan, William D.
McComb, Richard
McDermott, Thomas
McDonald, Christina E.
McElwain, Patrick J.
McLane, JoAnn
Meckley, Tammy M.
Melendez, Angel M.
Melero, Mariela
Micone, Vincent N.
Miles, Jere T.
Miles, John D.
Miller, Marlon V.
Mishoe, Andrea R.
Mitnick, John
Moman, C. Christopher
Moncarz, Benjamin D.
Moore, Mark J.
Moskowitz, Brian M.
Moss, Rita J.
Mulligan, George D.
Murray, James M.
Muzyka, Carolyn L.
Nally, Kevin
Nelson, Mickey M.
Nestor, Eric J.
Neufeld, Donald W.
Nuebel Kovarik, Kathy
Owen, Todd C.
Padilla, Kenneth
Palmer, David
Paramore, Faron K.
Parker, Debra F.
Paschall, Robert D.
Patel, Kalpesh A.
Paul, Kshemendra
Perez, Nelson
Perez, Robert E.
Piccone, Colleen C.
Pietropaoli, Lori A.
Pineiro, Marlen
Pohlman, Teresa R.
Price, Corey A.
Prosnitz, Susan M.
Provost, Carla L.
Rabin, John L.
Renaud, Daniel M.
Renaud, Tracy L.
Rice, Stephen W.
Richardson, Gregory
Ries, Lora L.
Riordan, Denis C.
Rivera, David D.
Robbins, Timothy S.
Robinson, Terri A.
Rodriguez, Waldemar
Roncone, Stephen A.
Rosenberg, Ron M.
Rosenblum, Marc R.
Roy, Donna M.
Ruppel, Joanna
Rynes, Joel C.
Sahakian, Diane V.
Salazar, Rebekah A.
Salazar, Ronald M.
Saltalamachea, Michael
Saunders, Ian C.
Schlegel, Thomas E.
Seguin, Debbie
Selby, Cara M.
Selby, Mark R.
Sellers, Frederick E.
Settles, Clark E.
Sevier, Adrian
Seymour, Donna K.
Shah, Dimple
Shaw, David C.
Short, Tracy
Short, Victoria
Sloan, Terry G.
Smislova, Melissa
Smith, Brenda B.
Smith, Frederick B.
Spero, James
Spradlin, Ryan L.
Stephens, Celisa M.
Stough, Michael S.
Sulc, Brian
Suriano, Mark A.
Sutherland, Dan W.
Swain, Donald R.
Swartz, Neal J.
Sykes, Gwendolyn
Symons, Craig M.
Szczech, Gracia B.
Taylor, Clothilda
Taylor, Robin
Travis, Matthew B.
Tuttle, James D.
Ulrich II, Dennis A.
Valverde, Michael
Van Houten, Ann
Venture, Veronica
Villanueva, Raymond
Wagner, John P.
Wallen, Steven
Walters, Thomas J.
Walton, Kimberly H.
Wasowicz, John A.
Whalen, Mary Kate
Wheaton, Kelly D.
Whittenburg, Cynthia F.
Wince, Kevin A.
Windham, Nicole
Wofford, Cynthia R.
Wong, Richardo A.
Wong, Sharon M.
Yandall, Gwendolyn
Yarwood, Susan A.
Young, Edward E.
Zabko, John G.

Dated: October 2, 2018.

Greg Ruocco,

Manager, Executive Resources Policy, Office of the Chief Human Capital Officer.

[FR Doc. 2018–21887 Filed 10–5–18; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2018–0056]

Technical Assistance Request and Evaluation

AGENCY: Office of Cybersecurity and Communications (CS&C), National Protection and Programs Directorate (NPPD), Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; extension.

SUMMARY: DHS NPPD CS&C will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until December 10, 2018.

ADDRESSES: You may submit comments, identified by docket number DHS–2018–0056, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: Kendall.Carpenter@HQ.DHS.GOV.* Please include docket number DHS–2018–0056 in the subject line of the message.
- *Mail:* Written comments and questions about this Information Collection Request should be forwarded to DHS/NPPD/CS&C/NCSD/CSEP, ATTN: 1670–0023, 245 Murray Lane SW, Mail Stop 0640, Kendall Carpenter, Arlington, VA 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kendall Carpenter at 703.705.6376 or at *Kendall.Carpenter@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION: The Office of Emergency Communications (OEC), formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 571 *et seq.,* as amended, provides emergency communications-related technical assistance at no charge to State, regional, local, and tribal government officials. To receive this technical assistance, stakeholders must submit a request form identifying their priorities. In order for OEC to assess the value of the services it provides through technical assistance, an evaluation form is also requested of those receiving technical assistance.

OEC uses the Technical Assistance Request Form (DHS Form 9043) to identify the number and type of technical assistance services needed by the State, territory, local, and tribal agencies. This information enables OEC to plan and align resources accordingly. OEC considers each request based on the priority indicated by the State, as well as the anticipated impact of the service offering on the implementation of the Statewide Communication Interoperability Plan (SCIP) and the applicability to National Emergency Communications Plan (NECP). The evaluation form (DHS Form 9042) is completed by stakeholders at the completion of OEC technical assistance services and enables OEC to assess the quality of technical assistance services provided and, in a holistic fashion, measure the value of the services. The information collected through these evaluations is used by OEC for continued improvement planning.

Approximately 100 percent of request and evaluation forms are submitted electronically by logging into the portal at *https://www.dhs.gov/ictapscip-resources.* From the website, users are able to select the appropriate form, either the Technical Assistance Requests (DHS Form 9043) and/or the TA Evaluation forms (DHS Form 9042), to complete as a fillable PDF. Each form is then submitted by email to either *TARequest@hq.dhs.gov* or *TAevaluations@hq.dhs.gov,* respectively.

The changes to the collection since the previous OMB approval include: Updating the web address, decreasing the estimated number of responses, decreasing the burden time, and increasing the cost estimates.

This is a renewal of an information collection.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: Technical Assistance Request and Evaluation.

OMB Control Number: 1670–0023.

Frequency: Annually.

Affected Public: State, Local, Tribal, and Territorial Governments.

Number of Respondents: 175.

Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 50 hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $0.

Scott Libby,

Deputy Chief Information Officer.

[FR Doc. 2018–21795 Filed 10–5–18; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7006–N–12]

60-Day Notice of Proposed Information Collection: Public Housing 5-Year and Annual PHA Plan and MTW Supplement to the PHA Plan

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* December 10, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Agency 5-Year and Annual

Plan and MTW Supplement to the PHA Plan.

OMB Approval Number: 2577–0226.

Type of Request: Revision of currently approved collection.

Form Number(s): HUD–50075–5Y, HUD–50075–ST, HUD–50075–SM, HUD–50075–HCV, HUD–50075–HP, HUD–50075–MTW, HUD–50077–CR, HUD–50077–SL, HUD–50077–CRT–SM, and HUD–50077–ST–HCV–HP.

Description of the need for the information and proposed use: The Public Housing Agency (PHA) Plan was created by section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1). There are two different PHA Plans: The Five-Year Plan and the Annual Plan. The Five-Year Plan describes the agency's mission, long-range goals and objectives for achieving its mission over a five-year period. The Annual PHA Plan is a comprehensive guide to PHA policies, programs, operations, and strategies for meeting local housing needs and goals. This revision integrates the MTW Supplement to the Annual PHA Plan process for PHAs that join MTW under the 2016 Appropriations Act (*i.e.,* MTW Expansion).

The PHA Plans informs HUD, residents, and the public of the PHA's mission for serving the needs of low, very low-income, and extremely low-income families and its strategy for addressing those needs. This information helps provide accountability to the local community for how PHAs spend their funding and implement their policies. Also, PHA plans allow HUD to monitor the performance of programs and the performance of public housing agencies that administer them.

HUD's most recent action in July of 2016 was to revise the collection in response to public comments urging HUD to return to earlier multiple versions of the PHA Plan templates by specific PHA type (*e.g.* standard, small, high performer, Section 8 only) instead of a ''One-Size Fits All'' form. HUD also added a section to accommodate the new requirements of the Affirmatively Furthering Fair Housing (AFFH) Rule, other public comments from 2013, and a minor change made in late 2014. OMB approved the changes as a full revision, but the 2016 versions of the forms were not made public due to ongoing changes to AFFH policies.

With this current proposed information collection, HUD intends to add a new template titled HUD–50075–MTW, and further modify the 5-Year and Annual PHA Plan Templates as well as the accompanying certifications in the following manner:

(1) Revise the instructions provided on the Assessment of Fair Housing (AFH) ensuring that program participants continue to conduct the Analysis of Impediments (AI) to fair housing until they are required to submit an AFH.

(2) Create a new section on all certifications to give program participants the option to add an explanation when they cannot certify to being fully compliant with the stated regulations.

(3) Specify on related certifications that the signed acknowledgement of the 'authorizing official' must be of the PHA Executive Director (ED) and Board Chairperson.

(4) Add the Moving to Work (MTW) Supplement template to the collections which will serve as the reporting mechanism to the Department for the new 100 MTW agencies that will be designated pursuant to the MTW Expansion authorized by the Appropriations Act of 2016 (*i.e.,* MTW Expansion).

Finally, the burden hours of the collection will increase by 600 hours due to an estimated 6.0 hours needed per MTW Supplement applicable to 100 new MTW agencies. However, it should be noted that, due to the de-coupling of Capital Fund Program activities from PHA Plan submissions in 2016, (HUD–50075.1 and HUD–50075.2 Capital Fund Annual Statement/Performance and Evaluation Report and 5-Year Action Plan forms), the associated burden hours (10,070) were removed from the approval for the PHA Plan under OMB no. 2577–0226. Therefore, the added burden of the MTW Supplement is relatively minor.

Revisions are made to this collection to reflect adjustments in calculations based on the total number of current, active public housing agencies (PHAs) to date. The number of active public housing agencies has changed from 3,819 to 3,780 since the last approved information collection. The number of PHAs can fluctuate due to many factors, including but not limited to performance scoring, the merging of two or more PHAs or the termination of the public housing and/or voucher programs due to the Rental Assistance Demonstration (RAD).

Respondents (*i.e.,* affected public): Local, Regional and State Body Corporate Politic Public Housing Agencies (PHAs) Governments.

Estimated Number of Respondents: 3,780.

Estimated Number of Responses: 4,832 (Annual Plan: 1,052 and 5 Year Plan: 3,780).

Frequency of Response: Every five years for all PHAs, annually for all PHAs except HERA Qualified PHAs.

Average Hours per Response: 6.2 hrs.

Total Estimated Burdens: 12,371.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 26, 2018.

Merrie Nichols-Dixon,

Director, Office of Policy, Program and Legislative Initiatives.

[FR Doc. 2018–21861 Filed 10–5–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–51]

Notice of Proposed Information Collection to OMB: Emergency Comment Request, Indian Housing Block Grant (IHBG) Competitive Program

AGENCY: Office of the Chief Information Officer.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for approval to collect information from eligible applicants and recipients of Indian Housing Block Grants awarded on a competitive basis, as authorized under the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

DATES: *Comments Due Date:* October 30, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within 21 days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection requirement as described below.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

A. Overview of Information Collection

Title of Information Collection: Indian Housing Block Grant (IHBG) Competitive Program.

OMB Approval Number: 2577–0218.

Type of Request: Revision of a currently approved collection.

Form Numbers: HUD–53246, HUD–53247, HUD–52737, HUD–4117, HUD–4119, HUD–52736–A, SF–424, HUD–2880, HUD–2993.

Description of the need for the information and proposed use: The purpose of this notice is to solicit public comment on the Notice of Funding Availability (NOFA), and two new forms (IHBG Cost Summary (HUD–53246), and IHBG Implementation Schedule (HUD–53247)) associated with the Indian Housing Block Grant Competitive program (IHBG Competitive).

In Fiscal Year 2018, Congress enacted H.R. 1625—Consolidated Appropriations Act, 2018 (Pub. L. 115–141) (Effective: 3/23/18) that appropriated $99,000,000 for IHBG Competitive funding awards under the Native American Housing Assistance and Self Determination Act (NAHASDA) of 1996 (25 U.S.C. 4101 *et seq.*). The Department will give priority to projects that will spur construction and rehabilitation from NAHASDA-eligible recipients while considering need and administrative capacity. Additionally, applicants may apply for other eligible activities under Section 202 of NAHASDA. Applicants for competitive IHBG funds are required to submit a grant application in response to a NOFA that includes a narrative response to the NOFA requirements, Application for Federal Assistance (SF–424), Applicant/Recipient Disclosure/Update Report (HUD–2880), Acknowledgement of Application Receipt (HUD–2993), IHBG Cost Summary (HUD–53246), and IHBG Implementation Schedule (HUD–53247). At the end of the 12-month program year, awardees are required to submit Annual Performance Reports (HUD–52737) that describe accomplishments, outcomes, and outputs. *Note:* The Annual Performance Report (HUD–52737) is not part of this information collection and displays a valid OMB Control Number through July 31, 2018.

The Department believes that the funding for IHBG Competitive meets the emergency processing criteria of 5 CFR 1320.13. The appropriations language meets the ''unanticipated event'' criteria of 5 CFR 1320.13 because this additional funding creates an entirely new competitive grant program to supplement the traditional formula-based block grant program of NAHASDA. Furthermore, the Department believes that the information collection associated with this competitive grant warrants emergency processing because following the regular PRA schedule would impede both the intent of this additional appropriation and HUD's goal to award funding to Native American communities in an expedited manner. The ''Consolidated Appropriations Act of 2018'' also directs the Department to give priority to projects that will ''*spur* construction and rehabilitation for grantees'' and the additional amount would ''remain available until September 30, 2022.'' For example, construction projects in Indian County can take three to five years from start to completion due to remote locations and complex land issues. Following an expedited emergency processing time frame would maximize the limited period of availability given by Congress for recipients to plan and implement projects as soon as possible.

Respondents: Native American Tribes, Alaska Native Villages and Corporations, and Tribally Designated Housing Entities.

Type of submission	Number of respondents	Frequency of submissions	Total responses	Estimate average time (hours)	Estimate annual burden (hours)
IHBG Competitive Program					
IHBG Competitive Grant Application (Includes Narrative, SF–424, HUD–2880, HUD–2993, HUD–53246, HUD–53247)	500	1	500	80	40,000
Annual Performance Report (HUD–52737)	200	1	200	32	6,400
Subtotal	700		700		46,400
IHBG Program					
IHP/APR (HUD–52737)	366	2	732	62	45,384
Formula Correction (HUD–4117)	300	1	300	0.5	150
Formula Challenge (HUD–4119)	15	1	15	150	2,250
Depository Agreement (Banker) (HUD–52736–A)	366	1	366	0.25	91.5
Depository Agreement (Broker) (HUD–52736–B)	366	1	366	0.25	91.5
Subtotal	366		1,779		47,967
Grand Total	1,066		2,479		94,367

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 as amended.

Dated: September 26, 2018.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–21860 Filed 10–5–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2018–N116; FVHC98220410150–XXX–FF04G01000]

Deepwater Horizon Oil Spill Florida Trustee Implementation Group Draft Restoration Plan 1 and Environmental Assessment: Habitat Projects on Federally Managed Lands; Nutrient Reduction; Water Quality; and Provide and Enhance Recreational Opportunities

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for comments, public meeting and webinar.

SUMMARY: In accordance with the Oil Pollution Act (OPA), the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), and the resulting Consent Decree, the Federal natural resource trustee agencies for the Florida Trustee Implementation Group (FL TIG) have prepared a Draft Restoration Plan 1 and Environmental Assessment (Draft RP1/EA). The Draft RP1/EA describes restoration alternatives considered by the FL TIG and proposes 24 preferred alternatives intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The purpose of this notice is to inform the public of the availability of the Draft RP1/EA and to seek public comments on the document.

DATES: *Submitting Comments:* The FL TIG will consider public comments received on or before October 26, 2018.

Public Meeting and Webinar: The FL TIG will conduct one public meeting and one webinar to facilitate public review and comment on the Draft RP1/EA. The public meeting and webinar will include presentation of the Draft RP1/EA. Comments will be taken through submission in person at the public meeting, online, or through U.S. mail (see *Submitting Comments* in **ADDRESSES**). Comments will be accepted during the public webinar. The public meeting and webinar are scheduled as follows:

WEBINAR

Date	Time	Link
October 10, 2018	1:30–4:00 p.m. ET	Webinar link will be provided at *http://www.gulfspillrestoration.noaa.gov/restoration-areas/florida.*

ADDRESSES: *Obtaining Documents:* You may download the Draft RP1/EA from either of the following websites:

- *http://www.gulfspillrestoration.noaa.gov*
- *http://www.doi.gov/deepwaterhorizon*

Alternatively, you may request a CD of the Draft RP1/EA (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: You may submit comments on the Draft RP1/EA by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov.*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345. In order to be considered, mailed comments must be postmarked on or before the comment deadline given in **DATES**.
- *During the public meeting.* (See **DATES** for more information.)
- *During the public webinar.* (See **DATES** for more information.)

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at nanciann_regalado@fws.gov or via phone at 404–679–4161.

SUPPLEMENTARY INFORMATION:

Introduction

In accordance with the Oil Pollution Act (OPA; 33 U.S.C. 2701 *et seq.*); the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*); the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS); and the resulting Consent Decree, the Federal natural resource trustee agencies for the Florida Trustee Implementation Group (FL TIG) have prepared a Draft Restoration Plan 1 and Environmental Assessment (Draft RP1/EA). The Draft RP1/EA describes restoration alternatives considered by the FL TIG and proposes 24 preferred alternatives intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred in 2010 in the Gulf of Mexico. The four restoration types addressed in the Draft RP 1/EA are Habitat Projects on Federally Managed Lands; Nutrient Reduction; Water Quality; and Providing and Enhancing Recreational Opportunities. The FL TIG evaluated these alternatives under criteria set forth in the OPA Natural Resource Damage Assessment (NRDA) regulations at 15 CFR part 990, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The purpose of this notice is to inform the public of the availability of the Draft RP1/EA and to seek public comments on the document.

Background

On or about April 20, 2010, the *Deepwater Horizon* (DWH) mobile drilling unit exploded, resulting in loss of life and a massive release of oil and natural gas from the British Petroleum Exploration and Production, Inc. (BP) Macondo well. Initial efforts to cap the well were unsuccessful, resulting in 87 days of continuous discharge into the northern Gulf of Mexico, totaling approximately 3.19 million barrels (134 million gallons) of oil. Oil spread from the deep ocean to the surface and nearshore environment from Texas to Florida, coming into contact and injuring a diverse set of natural resources. Extensive response actions, including cleanup activities and actions to prevent the oil from reaching sensitive resources, were undertaken; however, many of these response actions had collateral impacts on the environment and natural resource services.

The Trustees conducted the NRDA for the *Deepwater Horizon* oil spill under the OPA. Pursuant to the OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (*i.e.,* the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection (FDEP) and Fish and Wildlife Conservation Commission (FWC); and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Florida Restoration Area are now selected and implemented by the FL TIG. The FL TIG is composed of two State Trustees and four Federal Trustees: FDEP, FWC, DOI, NOAA, EPA, and USDA.

On November 4, 2016, the FL TIG posted a public notice at *http://www.gulfspillrestoration.noaa.gov* requesting new or revised natural resource restoration project ideas by December 5, 2016, for the FL Restoration Area. The notice stated that the FL TIG was seeking project ideas for the following Restoration Types: (1) Habitat Projects on Federally Managed Lands; (2) Nutrient Reduction; (3) Water Quality; and (4) Provide and Enhance Recreational Opportunities.

On September 29, 2017, the FL TIG announced that it had initiated drafting of its first post-settlement draft restoration plan, and that the first plan would include restoration projects for Habitat Projects on Federally Managed Lands; Nutrient Reduction; Water Quality; and Provide and Enhance Recreational Opportunities.

Overview of the FL TIG Draft RP1/EA

The Draft RP1/EA is being released in accordance with OPA, NRDA regulations, NEPA, the Consent Decree, and the Final PDARP/PEIS. The 24 preferred restoration alternatives include Habitat Projects on Federally Managed Lands at Gulf Islands National Seashore (FL) and St. Vincent National Wildlife Refuge; Nutrient Reduction projects in Pensacola Bay, Perdido River and Lower Suwannee River Watersheds; projects that restore Water Quality in Pensacola Bay Watershed, Carpenter Creek, Pensacola Beach, Rattlesnake Bluff Road, Alligator Lake, St. Andrew Bay, City of Port St. Joe, City of Carrabelle, Lower Suwanee National

Wildlife Refuge and Charlotte Harbor; and projects that Provide and Enhance Recreation Opportunities in Perdido River, Carpenter Creek, Gulf Islands National Seashore (FL), Joe's Bayou, St. Marks National Wildlife Refuge and the following State parks: Topsail Hill, Camp Helen, St. Andrews State Park, and T.H. Stone Memorial St. Joseph Peninsula.

In compliance with NEPA, an environmental assessment is integrated into the plan. The FL TIG also analyzes eight additional alternatives, as well as no action. One or more alternatives may be selected for implementation by the FL TIG in the Final RP1/EA or in future restoration plans.

The proposed alternatives are intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. Additional restoration planning for the FL Restoration Area will continue.

Next Steps

As described above, one public open house/meeting and one public webinar are scheduled to facilitate the public review and comment process on the Draft RP1/EA. After the public comment period ends, the FL TIG will consider and address the comments received before issuing the Final RP1/EA.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be 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.

Administrative Record

The documents comprising the Administrative Record for the Draft RP1/EA can be viewed electronically at *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990, and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Kevin D. Reynolds,

Assistant Regional Director—Gulf Restoration, FWS; Department of the Interior Natural Resource Trustee Official for the Florida Trustee Implementation Group.

[FR Doc. 2018–21601 Filed 10–5–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–ES–2018–N110; FVHC98220410150–XXX–FF04G01000]

Deepwater Horizon Oil Spill Draft Restoration Plan 1 and Environmental Assessment; Open Ocean Trustee Implementation Group

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act, the National Environmental Policy Act, *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement, and the resulting Consent Decree, we, the Federal natural resource trustee agencies for the Open Ocean Trustee Implementation Group, have prepared a Draft Restoration Plan 1 and Environmental Assessment (Draft RP1/EA). The Draft RP1/EA proposes three preferred alternatives for the Bird and Sturgeon restoration types, and is intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico.

DATES: *Submitting Comments:* We will consider public comments received on or before November 9, 2018.

Public Webinars: We will conduct two webinars to present and facilitate the public review and comment process for the Draft RP1/EA. Comments will not be taken through the public webinars. Comments will be taken only through submission online or via U.S. mail (see **ADDRESSES**). The public webinars are scheduled as follows:

Date	Time	Webinar link location
October 16, 2018	12 p.m. central time	*http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean.*
October 17, 2018	6 p.m. central time	*http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean.*

ADDRESSES: *Obtaining Documents:* You may download the Draft RP1/EA from either of the following websites:

- *http://www.gulfspillrestoration.noaa.gov*
- *http://www.doi.gov/deepwaterhorizon*

Alternatively, you may request a CD of the Draft RP1/EA (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: You may submit comments on the Draft RP1/EA by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov.*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345. In order to be considered, mailed comments must be postmarked on or before the comment deadline given in **DATES**.

For more information, see Public Availability of Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, via email at *nanciann_regalado@fws.gov*, via telephone at 404–679–4161, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest offshore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Trustees conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under

the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to the OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use of and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Open Ocean Restoration Area are now selected and implemented by the Open Ocean TIG. The Open Ocean TIG is composed of four federal Trustees: DOI, NOAA, EPA, and USDA.

Background

On March 31, 2017, the Open Ocean TIG posted a public notice at *http://www.gulfspillrestoration.noaa.gov*, requesting new or revised natural resource restoration project ideas by May 15, 2017, for the Open Ocean Restoration Area for the 2017–20 planning years. The notice stated that the Open Ocean TIG was seeking project ideas for the following Restoration Types: (1) Birds; (2) Sturgeon; (3) Sea Turtles; (4) Marine Mammals; (5) Fish and Water Column Invertebrates; and (6) Mesophotic and Deep Benthic Communities.

On February 7, 2018, the Open Ocean TIG announced that it had initiated drafting of its first and second post settlement draft restoration plans; and that the first plan would include restoration projects for Birds and Sturgeon, while the second plan would include restoration projects for Sea Turtles, Marine Mammals, Fish and Water Column Invertebrates, and Mesophotic and Deep Benthic Communities.

Overview of the Open Ocean TIG Draft RP1/EA

The Draft RP1/EA is being released in accordance with the OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA, the Consent Decree, and the Final PDARP/PEIS.

In the Draft RP1/EA, the Open Ocean TIG proposes three preferred alternatives from the Bird and Sturgeon restoration types, at an estimated total cost of $16,000,000. The preferred alternatives include restoration of common loons in Minnesota through conservation easements or fee title acquisitions of loon nesting habitat, breeding habitat enhancements, and reduction in exposure to lead-based fishing tackle; restoration of black terns in the prairie pothole region of North Dakota and South Dakota through conservation easements of black tern nesting habitat; and characterizing Gulf sturgeon spawning habitat, habitat use, and origins of juvenile sturgeon in the Pearl and Pascagoula River Systems in Louisiana and Mississippi. The Open Ocean TIG also analyzes three additional alternatives, as well as the no-action alternative in the Draft RP1/EA. One or more alternatives may be selected for implementation by the Open Ocean TIG in the Final RP1/EA or in future restoration plans.

The proposed alternatives are intended to continue the process of using *Deepwater Horizon* restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. Additional restoration planning for the Open Ocean Restoration Area will continue.

Next Steps

As described above, two public webinars are scheduled to facilitate the public review and comment process on the Draft RP1/EA. After the public comment period ends, the Open Ocean TIG will consider and address the comments received before issuing a final RP1/EA.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be 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.

Administrative Record

The documents comprising the Administrative Record for the Draft RP1/EA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/administrativerecord.*

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Kevin D. Reynolds,

Assistant Regional Director—Gulf Restoration, FWS; Department of the Interior Natural Resource Trustee Official for the Open Ocean Trustee Implementation Group.

[FR Doc. 2018–21602 Filed 10–5–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DOI–2018–0008; 18XD4523WS, DS64900000, DWSN00000.000000, DP.64916]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior proposes to modify the Department of the Interior ''DOI–16, DOI LEARN (Department-wide Learning Management System)'' system of records notice. This system of

records helps the Department of the Interior maintain and validate training records, manage class rosters and transcripts, meet Federal mandatory training and statistical reporting requirements, and manage other functions related to training and educational programs. This modified system will be included in the Department of the Interior's inventory of record systems.

DATES: This modified system will be effective upon publication. New or modified routine uses will be effective November 8, 2018. Submit comments on or before November 8, 2018.

ADDRESSES: You may submit comments, identified by docket number DOI–2018–0008, by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.
- Hand-delivering comments to Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.
- *Email: DOI_Privacy@ios.doi.gov.*

All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240, email at *DOI_Privacy@ios.doi.gov* or by telephone at (202) 208–1605.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI), Office of the Secretary maintains the DOI–16, DOI LEARN, system of records to manage Department-wide, bureau and office training and learning programs. This system of record helps DOI maintain and validate training records, manage class rosters and transcripts for course administrators and the student or learner, meet Federal mandatory training and statistical reporting requirements, and manage other programmatic functions related to training and educational programs. DOI collects personal information from students in order to communicate training opportunities, manage course registration and delivery, validate training records necessary for certification or granting of college credit, process billing information for training classes, and to meet Federal training reporting requirements. Information may also be collected to comply with the Americans with Disabilities Act requirements to address facilities accommodations. Training and learning records are maintained in DOI's web-based learning management system, and bureau and office systems and locations where training programs are managed.

DOI is revising the system of records notice to update the system name, system location, system manager and address, categories of individuals, categories of records, storage, retrievability, safeguards, retention and disposal, notification procedures, records access and contesting procedures, and records source categories; reorganize the sections and add new sections to describe the purpose of the system and history in accordance with Office of Management and Budget (OMB) Circular A–108; and provide general and administrative updates to the remaining sections. Additionally, DOI is modifying existing routine uses to provide clarity and transparency, and proposing to add new proposed routine uses to permit sharing of information with other agencies to respond to breaches of personally identifiable information. Routine uses D, E, H, I, and J have been modified to provide additional clarification on external organizations and circumstances where disclosures are proper and necessary to facilitate training functions or to comply with Federal requirements. Routine use G was modified to further clarify disclosures to the Department of Justice or other Federal agencies when necessary in relation to litigation or judicial proceedings.

DOI is proposing to add new routine uses K through S to facilitate sharing of information with agencies and organizations to ensure the efficient and effective management of training for employees, promote the integrity of the records in the system, or carry out a statutory responsibility of the DOI or the Federal Government. Proposed routine use K facilitates sharing of information with the Executive Office of the President to resolve issues concerning individual's records. Routine use L allows DOI to refer matters to the appropriate Federal, state, local, or foreign agencies, or other public authority agencies responsible for investigating or prosecuting violations of law. Routine use M facilitates sharing with other government and tribal organizations pursuant to a court order or discovery request. Modified routine use N and proposed routine use O allow DOI to share information with appropriate Federal agencies or entities when reasonably necessary to respond to a breach of personally identifiable information and to prevent, minimize, or remedy the risk of harm to individuals or the Federal Government, or assist an agency in locating individuals affected by a breach in accordance with OMB Memorandum M–17–12, ''Preparing for and Responding to a Breach of Personally Identifiable Information.'' Routine use P facilitates sharing of privacy information with OMB as required under OMB Circular A–19, ''Legislative Coordination and Clearance.'' Routine use Q allows DOI to share information with the Department of the Treasury to recover debts owed to the United States. Routine use R allows DOI to disclose information to the news media and the public when there is a legitimate public interest in the information, or to demonstrate accountability or ensure effective Government functions. Routine use S allows DOI to share information with the Office of Personnel Management to maintain integrity of employee training records and provide training reports to meet Federal training requirements.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or an alien lawfully admitted for permanent residence. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the existence and character of each system of records that the agency maintains and the routine uses of each system. The revised DOI

learning management system of records notice is published in its entirety below. In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Participation

You should be aware your entire comment including your personal identifying information, such as your address, phone number, email address, or any other personal identifying information in your comment, may be made publicly available at any time. While you may request to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

Teri Barnett,

Departmental Privacy Officer.

SYSTEM NAME AND NUMBER:

INTERIOR/DOI–16, Learning Management System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

(1) Department-wide training records are centrally managed by the Office of Policy, Management and Budget, Chief Human Capital Office, and are maintained in the Department's learning management system located at a DOI-controlled datacenter at U.S. Department of the Interior, 7301 W Mansfield Avenue, Denver, CO 80235.

(2) Records are also located in DOI bureau and office facilities, systems, and portals that manage or sponsor training and educational programs.

SYSTEM MANAGER(S):

(1) Chief Learning Officer, Office of the Secretary, Department of the Interior, Main Interior Building, 1849 C Street NW, Washington, DC 20240.

(2) Bureau and Office Learning Managers responsible for managing training, educational and learning programs. A current list of the Learning Managers and their addresses is available on the DOI Learn Bureau Contact website at *https://www.doi.gov/doilearn/datastewards/.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4101, *et seq.,* Government Organization and Employee Training; 5 U.S.C. 1302, 2951, 4118, 4506, 3101; 43 U.S.C. 1457; Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000d); Executive Order 11348, Providing for Further Training of Government Employees, as amended by Executive Order 12107, Relating to Civil Service Commission and Labor Management in Federal Service; 5 CFR 410, Subpart C, Establishing and Implementing Training Programs; Americans with Disabilities Act (42 U.S.C. 12101); and the E-Government Act of 2002 (44 U.S.C. 3501, *et seq.*).

PURPOSE(S) OF THE SYSTEM:

The primary purposes of the system are to: (1) Manage training and learning programs; (2) plan and facilitate training courses including outreach, registration, enrollment and payment; (3) maintain and validate training records for certification and mandatory compliance reporting; (4) meet Federal training statistical reporting requirements; (5) maintain class rosters and transcripts for course administrators, students and learners; and (6) generate budget estimates for training requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOI employees, contractors, interns, emergency workers, volunteers and appointees who receive training related to their official duties, whether or not sponsored by DOI bureaus and offices. Non-DOI individuals who participate in DOI-sponsored training and educational programs, or participate in DOI-sponsored meetings and activities related to training and educational programs. Non-DOI individuals may include individuals from other Federal, state or local agencies, private or not-for-profit organizations, universities and other schools, and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Training, educational and learning management records may include course registration, attendance rosters, and course information including course title, class name, objectives, description, and who should attend; class status information including begin and end dates, responsible class instructor, completion status and certification requirements; student transcripts (course(s) completed/not completed, test scores, acquired skills); and correspondence, reports and documentation related to training, education and learning management programs. These records may contain: Name, Social Security number, employee common identifier generated from the DOI Federal Personnel and Payroll System (FPPS), login username, password, agency or organization affiliation, work or personal address, work or personal phone and fax number, work or personal email address, gender, date of birth, organization code, position title, occupational series, pay plan, grade level, supervisory status, type of appointment, education level, duty station code, agency, bureau, office, organization, supervisor's name and phone number, date of Federal service, date of organization or position assignment, date of last promotion, occupational category, race, national origin, and adjusted basic pay. Records may also include billing information such as responsible agency, tax identifier number, DUNS number, purchase order numbers, agency location codes and credit card information. Records maintained on non-DOI individuals is generally limited to name, agency or organization affiliation, address, work and personal phone and fax numbers, work and personal email addresses, supervisor name and contact information, position title, occupational series, and billing information.

RECORD SOURCE CATEGORIES:

Information on DOI employees is obtained directly from individuals on whom the records are maintained, supervisors, or existing DOI records. Historical employee training records may be obtained from other DOI learning management systems. Information from non-DOI individuals who register or participate in DOI-sponsored training programs is obtained from individuals through paper and electronic forms. Information may also be obtained by another agency, institution or organization that sponsored the training event.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To release statistical information and training reports to other organizations who are involved with the training.

B. To disclose information to other Government training facilities (Federal, state, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

C. To provide transcript information to education institutions upon the student's request in order to facilitate transfer of credit to that institution, and to provide college and university officials with information about their students working in the Pathways

Program, Volunteer Service, or other similar programs necessary to a student's obtaining credit for the experience.

D. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

E. To an expert, consultant, grantee, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

F. To share logistical or attendance information with partner agencies (Government or non-Government) who, based on cooperative training agreements, have a need to know.

G. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(1) DOI or any component of DOI;

(2) Any other Federal agency appearing before the Office of Hearings and Appeals;

(3) Any DOI employee or former employee acting in his or her official capacity;

(4) Any DOI employee or former employee acting in his or her individual capacity when DOI or DOJ has agreed to represent that employee or pay for private representation of the employee; or

(5) The United States Government or any agency thereof, when DOJ determines that DOI is likely to be affected by the proceeding.

H. To a congressional office when requesting information on behalf of, and at the request of, the individual who is the subject of the record.

I. To an official of another Federal, state or local government or Tribal organization to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained, or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

J. To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

K. To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible with the reason for which the records are collected or maintained.

L. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

M. To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

N. To appropriate agencies, entities, and persons when:

(1) DOI suspects or has confirmed that there has been a breach of the system of records;

(2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

O. To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

P. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

Q. To the Department of the Treasury to recover debts owed to the United States.

R. To the news media and the public, with the approval of the Public Affairs Officer in consultation with counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

S. To the Office of Personnel Management to disclose information on employee general training, including recommendations and completion, specialized training obtained, participation in government-sponsored training, or training history as required to provide workforce information for official personnel files.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), records may be disclosed to consumer reporting agencies as they are defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in systems, databases, electronic media on hard disks, magnetic tapes, compact disks and paper media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information from this system is retrieved by either unique identifying fields (*e.g.,* student name or email address) or by general category (*e.g.,* course code, training location, class start date, registration date, affiliation, mandatory training compliance and payment status).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

DOI training records are maintained under Department Records Schedule (DRS)—1.2.0004, Short-Term Human Resources Records (DAA–0048–2013–0001–0004) and DRS –1.2.0005, Long-term Human Resources Records (DAA–0048–2013–0001–0005), which were approved by NARA. General employee training records and working files have a temporary disposition authority and are maintained for three years. Records will be cut off at the end of fiscal year in which files are closed, and the records will be destroyed 3 years after cut-off. Employee performance and competency management records maintained under DRS 1.2.0005 have a longer retention period. The records

disposition is temporary, and records will be cut off at the end of the fiscal year in which the record is created. Contractor data will be cut off when the contractor separates or is no longer employed by the agency. Records must be retained 7 years after cut-off.

Training records related to specialized program areas may be covered under other approved records retention schedules based on the program or mission area and agency needs. Retention periods may vary based on the training program or subject matter, and longer retention is authorized for specific training programs when it is necessary to support business use or to meet Federal records requirements. Approved destruction methods for temporary records that have met their retention period include shredding or pulping paper records, and erasing or degaussing electronic records in accordance with 384 Departmental Manual 1 and NARA guidelines.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The records maintained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. During normal hours of operation, paper or micro format records are maintained in locked file cabinets in secured rooms under the control of authorized personnel. Information technology systems follow the National Institute of Standards and Technology privacy and security standards developed to comply with the Privacy Act of 1974 as amended, 5 U.S.C. 552a; the Paperwork Reduction Act of 1995, Public Law 104–13; the Federal Information Security Modernization Act of 2014, Public Law 113–283, as codified at 44 U.S.C. 3551, *et seq.;* and the Federal Information Processing Standard 199, Standards for Security Categorization of Federal Information and Information Systems.

Computer servers on which electronic records are stored are located in secured DOI facilities with physical, technical and administrative levels of security to prevent unauthorized access to the DOI network and information assets. Security controls include encryption, firewalls, audit logs, and network system security monitoring. Electronic data is protected through user identification, passwords, database permissions and software controls. Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each person's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users for DOI are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training, and sign DOI Rules of Behavior.

Computerized records systems follow the National Institute of Standards and Technology privacy and security standards as developed to comply with the Privacy Act of 1974, 5 U.S.C. 552a; Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521; Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551–3558; and the Federal Information Processing Standards 199: Standards for Security Categorization of Federal Information and Information Systems. Security controls include user identification, passwords, database permissions, encryption, firewalls, audit logs, and network system security monitoring, and software controls. A privacy impact assessment was conducted on DOI's learning management system to ensure that Privacy Act requirements are met and appropriate privacy controls were implemented to safeguard personally identifiable information.

RECORD ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORD PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager as identified above. The request must include the specific bureau or office that maintains the record to facilitate location of the applicable records. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

70 FR 58230 (October 5, 2005); modification published at 73 FR 8342 (February 13, 2008).

[FR Doc. 2018–21796 Filed 10–5–18; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Exxon Valdez Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of renewal.

SUMMARY: The U.S. Department of the Interior announces the charter renewal of the *Exxon Valdez* Oil Spill Public Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Dr. Philip Johnson, U.S. Department of the Interior, Office of Environmental Policy and Compliance, 1689 C Street, Suite 119, Anchorage, Alaska 99501–5126, 907–271–5011.

SUPPLEMENTARY INFORMATION: The Court Order establishing the *Exxon Valdez* Oil Spill Trustee Council also requires a public advisory committee. The Public Advisory Committee was established to advise the Trustee Council and began functioning in October 1992. The Public Advisory Committee consists of 10 members representing the following principal interests: Aquaculture/mariculture, commercial fishing, commercial tourism, recreation, conservation/environmental, Native landownership, sport hunting/fishing, subsistence, science/technology, and public-at-large. In order to ensure that a broad range of public viewpoints continues to be available to the Trustee Council, and in keeping with the settlement agreement, the continuation of the Public Advisory Committee is necessary.

In accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C., App. 2), and in consultation with the General Services Administration, the Secretary of the Interior hereby renews the charter for the *Exxon Valdez* Oil Spill Public Advisory Committee.

Certification Statement: I hereby certify that the renewal of the charter for

the *Exxon Valdez* Oil Spill Public Advisory Committee is necessary and in the public interest in connection with the performance of duties mandated by the settlement of *United States* v. *State of Alaska,* No. A91–081 CV, and is in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended and supplemented.

Dated: October 3, 2018.

Ryan K. Zinke,

Secretary of the Interior.

[FR Doc. 2018–21895 Filed 10–5–18; 8:45 am]

BILLING CODE 4334–63–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–046]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 19, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 731–TA–1422 and 1423 (Preliminary)(Strontium Chromate from Austria and France). The Commission is currently scheduled to complete and file its determinations on October 22, 2018; views of the Commission are currently scheduled to be completed and filed on October 29, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 3, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–21952 Filed 10–4–18; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–044]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 16, 2018 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–590 and 731–TA–1397 (Final) (Sodium Gluconate, Gluconic Acid, and Derivative Products from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission by October 30, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 3, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–21950 Filed 10–4–18; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–565]

American Manufacturing Competitiveness Act: Effects of Temporary Duty Suspensions and Reductions on the U.S. Economy; Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: The U.S. International Trade Commission has instituted investigation No. 332–565, *American Manufacturing Competitiveness Act: Effects of Temporary Duty Suspensions and Reductions on the U.S. Economy,* for the purpose of preparing the report required by section 4 of the American Manufacturing Competitiveness Act of 2016 on the effects on the U.S. economy of duty suspensions and reductions contained in a miscellaneous tariff bill. The Commission will also solicit and append to the report recommendations with respect to domestic industry sectors or specific domestic industries that might benefit from permanent duty suspensions and reductions. The Commission will hold a public hearing in the investigation on March 5, 2019.

DATES:

February 19, 2019: Deadline for filing requests to appear at the public hearing.

February 22, 2019: Deadline for filing pre-hearing briefs and statements.

March 5, 2019: Public hearing.

March 12, 2019: Deadline for filing post-hearing briefs and statements.

March 22, 2019: Deadline for filing all other written submissions.

September 13, 2019: Transmittal of the Commission's report to the House Committee on Ways and Means and the Senate Committee on Finance.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/.*

FOR FURTHER INFORMATION CONTACT: Project Leader Kimberlie Freund (202–708–5402 or *kimberlie.freund@usitc.gov*) or Deputy Project Leader Samantha DeCarlo (202–205–3165 or *samantha.decarlo@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2002.

SUPPLEMENTARY INFORMATION:

Background: Section 4 of the American Manufacturing

Competitiveness Act of 2016 (the Act) (19 U.S.C. 1332 note) requires that the Commission submit a report on the effects on the U.S. economy of duty suspensions and reductions enacted pursuant to this Act no later than 12 months after the date of the enactment of a miscellaneous tariff bill. More specifically, section 4 of the Act requires that the report include a broad assessment of the economic effects of such duty suspensions and reductions on producers, purchasers, and consumers in the United States, using case studies describing such effects on selected industries or by type of article as available data permit. The Act also requires that the Commission solicit and append to the report recommendations with respect to those domestic industry sectors or specific domestic industries that might benefit from permanent duty suspensions and reductions, either through a unilateral action of the United States or through negotiations for reciprocal tariff agreements, with a particular focus on inequities created by tariff inversions.

On September 13, 2018, the President signed into law the Miscellaneous Tariff Bill Act of 2018 (Public Law 115–239), which triggers the reporting requirement. The Commission expects to transmit its report to the House Committee on Ways and Means and the Senate Committee on Finance by September 13, 2019.

Public Hearing: The Commission will hold a public hearing in connection with this investigation at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on March 5, 2019. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., February 19, 2019 in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed no later than 5:15 p.m., February 22, 2019; and all post-hearing briefs and statements responding to matters raised at the hearing should be filed no later than 5:15 p.m., March 12, 2019. In the event that, as of the close of business on February 19, 2019, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after February 19, 2019, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, the Commission invites interested parties to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., March 22, 2019. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information or ''CBI''). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Confidential Business Information: Any submissions that contain CBI must also conform to the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the CBI is clearly identified by means of brackets. The Commission will make all written submissions available for inspection by interested parties except those containing CBI.

In its request, Congress requires that this report be submitted in unclassified form, but may use a classified appendix. As such, the Commission will not include any CBI or national security classified information in the report that it delivers to the Committees. All information, including CBI, submitted in 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 for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of the written submissions filed by interested persons. Persons wishing to have a summary of their submission included in the report should include a summary with their written submission. The Summary should be clearly marked as ''Summary'' at the top of the page. It may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any CBI. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: October 2, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–21800 Filed 10–5–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–045]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 18, 2018 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 731–TA–1387–1391 (Final)(Polyethylene Terephthalate (''PET'') Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan). The Commission is currently scheduled to complete and file its determinations and views of the Commission by October 31, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 3, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–21951 Filed 10–4–18; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 31 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) National Fingerprint File Participation Implementation Plan Update

(2) Updates to the Civil Fingerprint Image Quality Strategy Guide

(3) Compact Council Member Duties and Expectations

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the Federal Bureau Of Investigation (FBI) Compact Officer, Mrs. Chasity S. Anderson at (304) 625–2803, at least 24 hours prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic.

DATES AND TIMES: The Council will meet in open session from 9 a.m. until 5 p.m., on November 7, 2018 and 9 a.m. until 12 p.m. on November 8, 2018.

ADDRESSES: The meeting will take place at the Westshore Grand Hotel, 4860 West Kennedy Boulevard, Tampa, Florida, 813–286–4400.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to: Mrs. Chasity S. Anderson, FBI Compact Officer, Module D3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone 304–625–2803, facsimile 304–625–2868.

Dated: September 25, 2018.

Chasity S. Anderson,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2018–21829 Filed 10–5–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Saratoga Springs Owners Association, Inc., et al.,* Case No. 2:17–cv–01244–DAK–BCW, was lodged with the United States District Court for the District of Utah, Central Division, on October 1, 2018.

This proposed Consent Decree concerns a complaint filed by the United States against the Saratoga Springs Owners Association, Inc. and Cross Marine Projects, Inc., pursuant to sections 301(a), 309(b), and 309(d) of the Clean Water Act, 33 U.S.C. 1311(a), 1319(b), and 1319(d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas, perform mitigation, and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to David A. Carson, Senior Trial Counsel, United States Department of Justice, Environment and Natural Resources Division, 999 18th Street, South Terrace, Suite 370, Denver, Colorado 80202, and refer to *United States* v. *Saratoga Springs Owners Association, et al.,* DJ #90–5–1–1–20715.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Utah, 351 South West Temple, Room 1.100, Salt Lake City, Utah 84101. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2018–21770 Filed 10–5–18; 8:45 am]

BILLING CODE 4410–15–P

OFFICE OF MANAGEMENT AND BUDGET

Request for Information

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Request for Information (RFI).

SUMMARY: The Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget, is seeking public input on how the Federal Government, under the auspices of the United States-Canada Regulatory Cooperation Council, may reduce or eliminate unnecessary regulatory differences between the United States and Canada. This request for information (RFI) may inform agencies' development of regulatory reform proposals to modify or repeal existing agency requirements to increase efficiency related to economic activity with Canada, reduce or eliminate unnecessary or unjustified regulatory burdens, or simplify regulatory compliance, while continuing to meet agency missions and statutory requirements. OIRA also seeks public comment to identify ongoing or emerging areas for which cooperation could reduce the risk of divergence between U.S. and Canadian regulations. OIRA plans to make all submissions publicly available on *www.regulations.gov.*

DATES: Written comments and information are requested on or before November 8, 2018.

ADDRESSES: Interested persons are encouraged to submit comments, identified by ''US-Canada RCC RFI,'' by any of the following methods: *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Email: *International-*

OIRA@OMB.eop.gov. Include ''US-Canada RCC RFI'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Vlad Dorjets, Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20503. Telephone: 202–395–7315.

SUPPLEMENTARY INFORMATION:

I. Request for Information

To help promote U.S. regulatory cooperation activities with Canada, OIRA seeks public comment on how to reduce burdens through the reduction of differences between U.S. and Canadian regulatory requirements, conformity assessment procedures, sub-regulatory guidance, and other related policies and procedures. In addition, OIRA invites comment on specific issues and sectors in which future cooperation would prove fruitful, including proposals to align regulatory systems, streamline bilateral cooperation, and improve stakeholder engagement. Although some agencies that participate in the U.S.-Canada Regulatory Cooperation Council (RCC) or are otherwise engaged in regulatory cooperation with Canada have previously sought regulatory reform ideas from the public, this RFI seeks broader input on regulations with respect to which international regulatory cooperation might be beneficial across all agencies, even those not presently engaged in such endeavors.

OIRA intends to communicate regulatory reform suggestions received in response to this RFI for consideration by the appropriate U.S. Federal agencies. OIRA may also communicate suggestions to the Treasury Board of Canada Secretariat (TBC) to get a broader perspective on these policy areas, including the potential cost reductions that could result from cooperation. Suggestions from the public may also inform discussion of these issues at public meetings sponsored by the RCC or participating agencies.

OIRA has identified some key topics on which stakeholder insights would be most helpful, though input on opportunities for international regulatory cooperation beyond these topics is also welcome:

(1) Particular sectors or issues for which the RCC should consider future regulatory cooperation or further regulatory alignment to reduce burden or other cost, including for emerging technologies that are not yet regulated.

(2) Particular forms, surveys, or other information collections that exist in both the United States and Canada where consolidation could reduce burden or increase practical utility.

(3) The appropriate role for stakeholders in furthering international regulatory cooperation and how stakeholders can best engage with Canadian and U.S. regulators on regulatory cooperation opportunities.

(4) Cooperative mechanisms or arrangements such as co-development, co-funding, or co-piloting which can be used to promote future international regulatory alignment.

(5) Potential alternatives to direct regulation or innovative and flexible approaches to regulation, including for emerging technologies.

(6) Whether the RCC should continue the existing set of work plans and/or whether activities in the work plans should be revised better to reflect developments in the relevant sectors.

When providing comments, OIRA requests that commenters identify the relevant regulatory agency or agencies and also specify the regulation, guidance document, form, or reporting requirement at issue, providing legal citation or form number and OMB Control Number where available. Please identify, where applicable, the relevant statutory or regulatory provisions for each jurisdiction (or an indication that such provisions do not exist in one or both jurisdictions). OIRA also requests that commenters provide as much detail as possible in describing the issue or unnecessary difference, as well as an explanation of how and why agencies could align, modify, streamline, or repeal the regulatory requirements, while still achieving their regulatory and/or statutory objectives. OIRA also requests that commenters include, wherever possible, supporting data or other quantitative information such as information about the burdens or cost resulting from the regulatory divergence and the possible burden or cost reduction from alignment, details on measurable benefits for industry, government, or consumers, and an assessment of the net benefits of enhanced regulatory alignment. Please specify the time period over which impacts have or are projected to accrue.

II. Background

A. The Regulatory Cooperation Council

The United States and Canada share many regulatory objectives, including reducing unnecessary or duplicative regulatory costs that discourage economic activity. The two countries, however, often select different approaches for achieving their policy objectives. These divergent approaches can lead to different regulatory requirements in the two countries, hindering national and cross-border economic activity, and imposing unnecessary costs on citizens, businesses, and economies. Even when the two countries opt to address a policy objective in the same way, implementation may result in duplicative paperwork requirements or procedures on both sides of the border. In many cases, these differences are unavoidable due to different statutory or legal requirements or additional policy considerations. In other cases, however, these differences may be avoidable and thus impose unnecessary burdens.

To identify, and reduce or eliminate, these unnecessary regulatory differences and duplicative procedures, as well as to increase regulatory transparency, the United States and Canada created the RCC in 2011. Several months after its creation, the two countries released Terms of Reference (2011 TOR) setting out the RCC's mandate, organization, and guiding principles.[1] The RCC is chaired by OIRA and TBC. As the regulatory oversight bodies of the United States and Canada, OIRA and TBC provide strategic direction to their respective regulatory agencies on regulatory cooperation initiatives.

The 2011 TOR acknowledged that each country would maintain its sovereign power to regulate and that regulatory outcomes for consumer protection, health, safety, security, and the environment would not be compromised. At its founding, the RCC understood that unnecessary regulatory differences ''do not increase regulatory benefits, and instead impose needless additional burdens and costs for both businesses and consumers.''

1. Following successful implementation of the 2011 Joint Action Plan—which set out 29 initiatives covering a wide range of regulatory work, from transportation and agriculture to nanomaterials[2]—the RCC issued a Joint Forward Plan (JFP) in 2014, which summarized lessons

[1] Available at *www.trade.gov/rcc/us-canada_rcc_terms_of_reference.pdf.*

[2] Available at *https://www.trade.gov/rcc/2011-Joint-Action-Plan.pdf.*

learned from the preceding three years and laid out a plan for the following years.[3] Specifically, it called for regulatory agencies on both sides of the border to develop Regulatory Partnership Statements (RPSs). These statements are public documents that outline the framework for how partner agencies manage cooperation activities. The JFP also called for the partner agencies to issue public ''work plans'' which set out commitments to cooperate in specific areas of regulatory activity. The most recent set of 23 work plans was released in 2016 and cover a variety of topics relating to public health (*e.g.,* pharmaceutical and biological products, over-the-counter products, pesticides, workplace chemicals), plant and animal health (*e.g.,* meat inspections, food safety), automobiles (*e.g.,* connected vehicles, motor vehicle standards), aviation (*e.g.,* unmanned aerial vehicles), chemical management, medical devices, locomotives (*e.g.,* rail safety, locomotive emissions), pipeline safety, and marine safety. The full set of work plans is available for review (together with related Regulatory Partnership Statements) at *www.trade.gov/rcc/*.

In February 2017, the Joint Statement of President Trump and Prime Minister Trudeau committed the two governments to ''continue our dialogue on regulatory issues and pursue shared regulatory outcomes that are business-friendly, reduce costs, and increase economic efficiency without compromising health, safety, and environmental standards.'' To that end, on June 4, 2018, OIRA and TBC signed a new Memorandum of Understanding (MOU) on regulatory cooperation.[4] The MOU reaffirms the principles and commitments of the RCC and of regulatory cooperation in general. It also included, as an Annex, a new RCC Terms of Reference (2018 TOR) which lays out an updated understanding on principles, mandate, and stakeholder engagement. The 2018 TOR also identified characteristics of sectors in which regulatory cooperation may prove most fruitful:

1. Sectors that are characterized by high levels of integration and a history of cooperative regulatory approaches and supporting activities;

2. Sectors that have well-developed pre-existing regulatory frameworks that are designed to achieve similar outcomes but that are currently a barrier to increased integration and activity;

3. Sectors that offer significant, emerging growth potential and that are characterized by rapidly evolving technologies where regulatory approaches are anticipated or are currently in early stages of development; and

4. Sectors where regulatory cooperation is intended to support export growth in North America.

B. Executive Order 13771

On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.''[5] That Order states that ''the policy of the Executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources.'' The Order states, ''[I]t is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.'' The Order also requires that, for each fiscal year, agencies must identify in their Regulatory Plans[6] offsetting regulations for each regulation that increases incremental cost and ''provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation.''

In issuing guidance to agencies on the implementation of E.O. 13771, on April 5, 2017, the Office of Management and Budget recognized that international regulatory cooperation may serve deregulatory functions and help agencies achieve the objectives of Executive Order 13771.[7]

C. Executive Order 13609

Executive Order 13609, ''Promoting International Regulatory Cooperation,'' signed on May 4, 2012, acknowledges the importance of international regulatory cooperation and recognizes that ''differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally.'' This RFI advances the Executive Order's objective by identifying unnecessary differences between U.S. and Canadian regulatory approaches.

Neomi Rao,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2018–21765 Filed 10–5–18; 8:45 am]

BILLING CODE 3110–01–P

[3] Available at *https://obamawhitehouse.archives.gov/sites/default/files/omb/oira/irc/us-canada-rcc-joint-forward-plan.pdf.*

[4] Available at *https://www.whitehouse.gov/wp-content/uploads/2018/06/US-CanadaMOU.pdf.*

[5] Available at *https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-02451.pdf.*

[6] *See* Exec. Order No. 12,866, 58 FR 51735 (Sept. 30, 1993).

[7] Available at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf.*

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0224]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from September 11, 2018, to September 24, 2018. The last biweekly notice was published on September 25, 2018.

DATES: Comments must be filed by November 8, 2018. A request for a hearing must be filed by December 10, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0224. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–

A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Ikeda Betts, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1959, email: *Ikeda.Betts@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0224 facility name, unit number(s), plant docket number, application date, and subject 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 *http://www.regulations.gov* and search for Docket ID NRC–2018–0224.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0224 facility name, unit number(s), plant docket number, application date, and subject> in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must

include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). 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. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://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 its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice 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 so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the

NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a 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 E-Filing 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 available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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 are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment application(s), see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2 (Catawba), York County, South Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (McGuire), Mecklenburg County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1 (Harris), Wake County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2 (Robinson), Darlington County, South Carolina

Date of amendment request: May 10, 2018. A publicly-available version is in ADAMS under Accession No. ML18131A068.

Description of amendment request: The amendments would revise the Technical Specifications (TSs) for Catawba and McGuire to remove ventilation system heaters. Specifically, ventilation system heaters would be removed from Catawba TSs 3.6.10, ''Annulus Ventilation System (AVS),'' 3.7.10, ''Control Room Area Ventilation System (CRAVS),'' 3.7.12, ''Auxiliary Building Filtered Ventilation Exhaust System (ABFVES),'' 3.7.13, ''Fuel Handling Ventilation Exhaust System (FHVES),'' 3.9.3, ''Containment Penetrations,'' 5.5.11, ''Ventilation Filter Testing Program (VFTP),'' and 5.6.6, ''Ventilation Systems Heater Report,'' and McGuire TSs 3.6.10, ''Annulus Ventilation System (AVS),'' 3.7.9, ''Control Room Area Ventilation System (CRAVS),'' 5.5.11, ''Ventilation Filter Testing Program (VFTP),'' and 5.6.6, ''Ventilation Systems Heater Failure Report.'' The specified relative humidity (RH) for charcoal testing in the ventilation system Surveillance Requirement (for Harris) and Ventilation Filter Testing Program (for Robinson) is revised from 70% to 95% and the ventilation system heaters will be removed from the Harris TSs 3/4.7.6, ''Control Room Emergency Filtration System,'' 3/4.7.7, ''Reactor Auxiliary Building (RAB) Emergency Exhaust System,'' 3/4.9.12, ''Fuel Handling Building Emergency Exhaust System,'' TSs 3.7.11, ''Fuel Building Air Cleanup System (FBACS),'' and 5.5.11, ''Ventilation Filter Testing Program (VFTP).'' The proposed changes are consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–522, ''Revise Ventilation System Surveillance Requirements to Operate for 10 Hours per Month,'' Revision 0. Additionally, an administrative error is being corrected in McGuire's TS 5.5.11, ''Ventilation Filter Testing Program (VFTP).''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change affects various CNS [Catawba], MNS [McGuire], HNP [Harris], and RNP [Robinson] ventilation system TS. For both CNS and MNS, the proposed change removes the requirement to test the heaters in these systems, and removes the Conditions in the associated TS which provide Required Actions, including reporting requirements, for inoperable heaters. In addition, the proposed change revises the CNS Surveillance Requirement (SR) 3.9.3.2 to operate for 15 continuous minutes without heaters running. For HNP and RNP, the proposed change removes the operability of the heaters from the SR. In addition, the electric heater output test is proposed to be deleted and a corresponding change in the charcoal filter testing to be made to require the testing be conducted at a humidity of at least 95% RH, which is more stringent than the current testing requirement of 70% RH.

These systems are not accident initiators and therefore, these changes do not involve a significant increase in the probability of an accident. The proposed system and filter testing changes are consistent with current regulatory guidance for these systems and will continue to assure that these systems perform their design function, which may include mitigating accidents. Thus the change does not involve a significant increase in the consequences of an accident.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of

accident from any accident previously evaluated?

Response: No.

The proposed change affects various CNS, MNS, HNP, and RNP ventilation system TS. For both CNS and MNS, the proposed change removes the requirement to test the heaters in these systems, and removes the Conditions in the associated TS which provide Required Actions, including reporting requirements, for inoperable heaters. In addition, the proposed change revises the CNS Surveillance Requirement (SR) 3.9.3.2 to operate for 15 continuous minutes without heaters running. For HNP and RNP, the proposed change removes the operability of the heaters from the SR. In addition, the electric heater output test is proposed to be deleted and a corresponding change in the charcoal filter testing to be made to require the testing be conducted at a humidity of at least 95% RH, which is more stringent than the current testing requirement of 70% RH.

The change proposed for these ventilation systems do not change any system operations or maintenance activities. Testing requirements will be revised and will continue to demonstrate that the Limiting Conditions for Operation are met and the system components are capable of performing their intended safety functions. The change does not create new failure modes or mechanisms and no new accident precursors are generated.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change affects various CNS, MNS, HNP, and RNP ventilation system TS. For both CNS and MNS, the proposed change removes the requirement to test the heaters in these systems, and removes the Conditions in the associated TS which provide Required Actions, including reporting requirements, for inoperable heaters. In addition, the proposed change revises the CNS Surveillance Requirement (SR) 3.9.3.2 to operate for 15 continuous minutes without heaters running. For HNP and RNP, the proposed change removes the operability of the heaters from the SR. In addition, the electric heater output test is proposed to be deleted and a corresponding change in the charcoal filter testing to be made to require the testing be conducted at a humidity of at least 95% RH, which is more stringent than the current testing requirement of 70% RH.

The proposed increase to 95% RH in the required testing of the charcoal filters for HNP and RNP, compensates for the function of the heaters, which was to reduce the humidity of the incoming air to below the currently-specified value of 70% RH for the charcoal. The proposed change is consistent with regulatory guidance and continues to ensure that the performance of the charcoal filters is acceptable.

The CNS and MNS ventilation systems are tested at 95% relative humidity, and, therefore, do not require heaters to heat the incoming air and reduce the relative humidity. The proposed change eliminates Technical Specification requirements for testing of heater operation, and removes administrative actions for heater inoperability.

The proposed changes are consistent with the regulatory guidance and do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, Mail Code DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Michael Markley.

Duke Energy Progress, LLC, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: August 14, 2018. A publicly-available version is in ADAMS under Accession No. ML18227A535.

Description of amendment request: The amendments would adopt Technical Specification Task Force (TSTF) Traveler TSTF–439, ''Eliminate Second Completion Times Limiting Time from Discovery of Failure to Meet an LCO [Limiting Condition of Operation].'' The proposed change deletes second Completion Times from the affected Required Actions contained in the Technical Specifications (TSs), along with removing the example contained in TS Section 1.3, and adding a discussion about alternating between Conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change eliminates second Completion Times from the Technical Specifications. Completion Times are not an initiator to any accident previously evaluated. The consequences of an accident during the revised Completion Time are no different than the consequences of the same accident during the existing Completion Times. As a result, the probability and consequences of an accident previously evaluated are not affected by this change. The proposed change does not alter or prevent the ability of systems, structures, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the types or amounts of radioactive effluent that may be released offsite nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The proposed change will not alter the design function, nor create new failure mechanisms, malfunctions, or accident initiators for the equipment related to the TS being altered.

Thus, based on the above, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to delete the second Completion Time does not alter the manner in which safety limits, limiting safety system settings, or limited conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside of the design basis.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, 550 South Tryon Street, M/C DEC45A, Charlotte, NC 28202.

NRC Acting Branch Chief: Booma Venkataraman.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Exelon Generation Company, LLC and Exelon FitzPatrick, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Exelon Generation Company, LLC, Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2, Oswego County, New York

Date of amendment request: August 31, 2018. A publicly-available version is in ADAMS under Accession No. ML18249A096.

Description of amendment request: The amendments would revise the emergency response organization (ERO) positions identified in the emergency plan for each site.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for each site, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the [site] Emergency Plan do not increase the probability or consequences of an accident. The proposed changes do not impact the function of plant Structures, Systems, or Components (SSCs). The proposed changes do not affect accident initiators or accident precursors, nor do the changes alter design assumptions. The proposed changes do not alter or prevent the ability of the onsite ERO to perform their intended functions to mitigate the consequences of an accident or event. The proposed changes remove ERO positions no longer credited or considered necessary in support of Emergency Plan implementation.

Therefore, the proposed changes to the [site] Emergency Plan do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on the design, function, or operation of any plant SSCs. The proposed changes do not affect plant equipment or accident analyses. The proposed changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed changes do not introduce failure modes that could result in a new accident, and the proposed changes do not alter assumptions made in the safety analysis. The proposed changes remove ERO positions no longer credited or considered necessary in support of Emergency Plan implementation.

Therefore, the proposed changes to the [site] Emergency Plan do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public.

The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. Margins of safety are unaffected by the proposed changes to the ERO staffing. The proposed changes are associated with the [site] Emergency Plan staffing and do not impact operation of the plant or its response to transients or accidents. The proposed changes do not affect the Technical Specifications. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Safety analysis acceptance criteria are not affected by these proposed changes. The proposed changes to the Emergency Plan will continue to provide the necessary onsite ERO response staff.

Therefore, the proposed changes to the [site] Emergency Plan do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis for each site and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

Florida Power & Light Company, et al., Docket No. 50–389, St. Lucie Plant (St. Lucie), Unit No. 2, St. Lucie County, Florida

Date of amendment request: June 29, 2018, as supplemented by letter dated August 17, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML18180A094 and ML18229A050, respectively.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) by reducing the total number of control element assemblies (CEAs) specified in the TSs from 91 to 87.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

A change is proposed in this License Amendment Request [(LAR)] to eliminate all four 4-element Control Element Assemblies (CEAs) currently used in the reactor core. These CEAs are part of 22 CEAs comprising the Shutdown Bank A. CEAs are required to provide sufficient shutdown margin during accident conditions. Removing these four CEAs does not have any adverse impact on the probability of these accidents, even for events were [sic] CEAs may be the accident initiator (*e.g.,* CEA withdrawal, CEA drop, CEA ejection). On the contrary, for single CEA events the probability may even decrease since the number of chances for an event to occur will decrease with a lesser number of CEAs available. Also, since the Core Operating Limits Report (COLR) shutdown margin requirements will continue to be met, the accident analysis limits will not be challenged, so the consequences of previously evaluated accidents will remain unaffected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

A change is proposed in this LAR to eliminate all four 4-element CEAs currently used in the St. Lucie Unit 2 core, reducing the number of CEAs in the core from 91 down to 87. With the proposed changes, no new or different type of equipment will be installed. The proposed change will not introduce credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and/or licensing bases. As a result, the removal of the 4-element CEAs does not introduce a mechanism for creating a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

A change is proposed in this LAR to eliminate all four 4-element CEAs currently used in the St. Lucie Unit 2 core. This constitutes a very small reduction of CEA worth available for shutdown margin, but will not affect the minimum shutdown margin requirement as used in the accident

analysis. Thus, this will not translate into a significant reduction in a margin of safety.

The margin of safety is established through the core design limits defined in the COLR, in addition to the equipment design, operating parameters, and the setpoints at which automatic actions are initiated for accident conditions. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. The response of the plant systems to accidents and transients design limits reported in the Updated Final Safety Analysis Report (UFSAR) is unaffected by this change as nuclear design and fuel management will ensure that the COLR specified shutdown margin requirements are met. The change does not exceed or alter a design basis or safety limit in the UFSAR or the license. Therefore, accident analysis acceptance criteria are not affected.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, Florida 33408–0420.

NRC Acting Branch Chief: Booma Venkataraman.

Southern Nuclear Operating Company, Inc., Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: August 27, 2018. A publicly-available version is in ADAMS under Accession No. ML18239A375.

Description of amendment request: The requested amendment proposes to depart from information in the Updated Final Safety Analysis Report (UFSAR) (which includes the plant-specific Design Control Document Tier 2 information) and involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated Combined License (COL) Appendix C information. Specifically, the requested amendment would revise the COL and licensing basis documents to add vent lines to the piping between the passive core cooling system (PXS) collection boxes and in-containment refueling water storage tank (IRWST) to remove entrained air and improve the drain line flow rates.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes modify the PXS drain lines to add vent lines to the piping between the PXS collection boxes and IRWST to remove entrained air and improve drain line flow rates, the corresponding ITAAC [inspections, tests, analyses, and acceptance criteria] is modified to reflect this design change. The proposed changes do not have any adverse effects on the design functions of the PXS. The probabilities of accidents evaluated in the UFSAR are not affected.

The changes do not adversely impact the support, design, or operation of mechanical and fluid systems. The changes do not impact the support, design, or operation of any safety-related structures. There is no adverse change to the plant systems or response of the systems to postulated accident conditions. There is no change to the predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the proposed changes create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes modify the PXS drain lines to add vent lines to the piping between the PXS collection boxes and IRWST to remove entrained air and improve drain line flow rates, the corresponding ITAAC is modified to reflect this design change. The proposed changes do not have any adverse effects on the design functions of the PXS, the structures or systems in which the PXS is used, or any other systems, structures, and components (SSCs) design functions or methods of operation that result in a new failure mode, malfunction, or sequence of events that affect safety-related or non-safety related equipment. This activity does not allow for a new fission product release path, [does not] result in a new fission product barrier [failure mode] mode, or create a new sequence of events that result in a significant fuel cladding failure.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes modify the PXS drain lines to add vent lines to the piping between the PXS collection boxes and IRWST to remove entrained air and improve drain line flow rates, the corresponding ITAAC is modified to reflect this design change.

The proposed changes do not have any adverse effects on the design functions of the PXS.

No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by these changes. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station (Surry), Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: July 31, 2018. A publicly-available version is in ADAMS under Accession No. ML18218A170.

Description of amendment request: The amendments would revise the Technical Specifications (TSs) for Facility Operating License Numbers DRP–32 and DRP–37 for Surry, Unit Nos. 1 and 2, respectively. The proposed license amendment request (LAR) replaces the current Small Break Loss of Coolant Accident (SBLOCA) methodologies contained in the TS list of NRC-approved methodologies for determining core operating limits with a new SBLOCA methodology. Specifically, the proposed LAR adds the Framatome Topical Report EMF–2328(P)(A), ''PWR [Pressurized-Water Reactor] Small Break LOCA Evaluation Model S–RELAP5 Based,'' as supplemented by the Surry-specific application report ANP–3676P, ''Surry Fuel-Vendor Independent Small Break LOCA Analysis,'' to the list of methodologies approved for reference in the Core Operating Limits Report (COLR) in TS 6.2.C. This reference replaces two existing COLR references for the current Westinghouse SBLOCA Evaluation Model. The added reference identifies the analytical methods used to determine core operating limits for the SBLOCA event described in the Surry Updated Final Safety Analysis Report (UFSAR), Section 14.5.2.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to TS 6.2.C permits the use of an NRC-approved methodology for analysis of the Small Break Loss of Coolant Accident (SBLOCA) to determine if Surry Power Station (Surry) Units 1 and 2 continue to meet the applicable design and safety analysis acceptance criteria. The proposed change to the list of NRC-approved methodologies in TS 6.2.C has no direct impact upon plant operation or configuration. The list of methodologies in TS 6.2.C does not impact either the initiation of an accident or the mitigation of its consequences. The results of the revised SBLOCA transient analysis and existing pre-transient oxidation limits demonstrate that Surry Units 1 and 2 continue to satisfy the 10 CFR 50.46(b)(1–3) Emergency Core Cooling System performance acceptance criteria using an NRC-approved evaluation model.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will not create the possibility of a new or different accident due to credible new failure mechanisms, malfunctions, or accident initiators not previously considered. There is no change to the parameters within which the plant is normally operated and no physical plant modifications are being made; thus, the possibility of a new or different type of accident is not created.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

No design basis or safety limits are exceeded or altered by this change. Approved methodologies have been used to ensure that the plant continues to meet applicable design criteria and safety analysis acceptance criteria.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.

NRC Branch Chief: Michael T. Markley.

III. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station (Summer), Unit No. 1, Fairfield County, South Carolina

Date of amendment request: August 24, 2018, as supplemented by letter dated August 31, 2018.

Description of amendment request: The amendment would revise the Summer, Unit No. 1, Technical Specifications (TS) for a one-time extension to the TS surveillance requirement of channel calibrations of the Core Exit Temperature Instrumentation. The surveillance requirement of TS 4.3.3.6 will be revised to allow a one-time extension of the frequency of the Core Exit Temperature Instrumentation Channel Calibrations from ''every refueling outage,'' which has been interpreted as 18 months, to ''every 19 months.''

*Date of publication of individual notice in **Federal Register**:* September 10, 2018 (83 FR 45688).

Expiration date of individual notice: September 23, 2018 (public comments); November 9, 2018 (hearing requests).

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: October 9, 2017.

Brief description of amendment: The amendment revised the technical specification (TS) requirements in TS 3.10.1, ''Inservice Leak and Hydrostatic Testing Operation,'' by adopting Technical Specification Task Force (TSTF) Traveler TSTF–484, Revision 0, ''Use of TS 3.10.1 for Scram Time Testing Activities.'' Specifically, the proposed changes revised the Limiting Condition for Operation 3.10.1 to expand its scope to include provisions for temperature excursions greater than 200 degrees Fahrenheit as a consequence of maintaining pressure for inservice leak and hydrostatic testing, and as a consequence of maintaining pressure for scram time testing initiated in conjunction with an inservice leak or

hydrostatic test, while considering operational conditions to be in Mode 4.

Date of issuance: September 13, 2018.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 210. A publicly-available version is in ADAMS under Accession No. ML18165A202; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–43: The amendment revised the Renewed Facility Operating License and TS.

*Date of initial notice in **Federal Register**:* February 27, 2018 (83 FR 8509).

The Commission's related evaluation of the amendments contained in a Safety Evaluation dated September 13, 2018.

No significant hazards consideration comments received: No.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: August 31, 2017, as supplemented by letters dated April 4, May 17, June 27, and August 7, 2018.

Brief description of amendment: The amendment replaced the existing technical specification requirements related to ''operations with a potential for draining the reactor vessel,'' with new requirements on reactor pressure vessel water inventory control to protect Technical Specification Safety Limit 2.1.1.3, which requires the reactor vessel water level to be greater than the top of active irradiated fuel.

Date of issuance: September 17, 2018.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No.: 211. A publicly-available version is in ADAMS under Accession No. ML18247A452; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–43: The amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* November 7, 2017 (82 FR 51649). The supplemental letters dated April 4, May 17, June 27, and August 7, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 17, 2018.

No significant hazards consideration comments received: No.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: August 24, 2017, as supplemented by letters dated October 18, 2017, February 21 and February 27, 2018.

Brief description of amendment: The amendment eliminated the main steam line radiation monitor (MSLRM) functions for initiating a reactor protection system automatic reactor trip and automatic closure of the main steam isolation valves and main steam line drain valves for the associated (Group 1) primary containment isolation system (PCIS). Specifically, it removed requirements for the MSLRM trip function from Technical Specification (TS) Table 3.3.1.1–1, ''Reactor Protection System Instrumentation.'' The amendment also removed requirements for PCIS Group 1 isolation from TS Table 3.3.6.1–1, ''Primary Containment Isolation Instrumentation,'' and the MSLRM isolation function is relocated and retained for the current existing PCIS Group 2 isolation of the reactor water sample line.

Date of issuance: September 20, 2018.

Effective date: As of the date of issuance and shall be implemented during the next refueling outage following approval.

Amendment No.: 212. A publicly-available version is in ADAMS under Accession No. ML18250A163; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–43: The amendment revised the Renewed Facility Operating License and TSs.

*Date of initial notice in **Federal Register**:* January 2, 2018 (83 FR 164). The supplemental letters dated October 18, 2017, February 21 and February 27, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 2018.

No significant hazards consideration comments received: No.

Duke Energy Progress, LLC, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: September 27, 2017, as supplemented by letters dated May 16, July 11, and August 1, 2018.

Brief description of amendment: The amendment revised the Technical Specifications to reflect the addition of a second qualified offsite power circuit. In addition, the amendment authorized changing the Updated Final Safety Analysis Report to allow for the use of automatic load tap changers on the new (230 kilovolt (kV)) and the replacement (115 kV) startup transformers.

Date of issuance: September 10, 2018.

Effective date: As of the date of issuance and shall be implemented by the end of the next refueling outage.

Amendment No.: 261. A publicly-available version is in ADAMS under Accession No. ML18228A584; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–23: The amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* December 5, 2017 (82 FR 57471). The supplemental letters dated May 16, July 11, and August 1, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 2018.

No significant hazards consideration comments received: No.

Exelon FitzPatrick, LLC and Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: May 17, 2018.

Brief description of amendment: The amendment revised Technical Specification (TS) 2.1.1, ''Reactor Core SLs [Safety Limits],'' to change Cycle 24 Safety Limit Minimum Critical Power Ratio (SLMCPR) numeric values. Specifically, the amendment modified the TS to decrease the numeric values of SLMCPR for Fitzpatrick from ≥ 1.10 to ≥ 1.07 for two recirculation loop operation and from ≥ 1.13 to ≥ 1.09 for single recirculation loop operation.

Date of issuance: September 19, 2018.

Effective date: As of the date of issuance and shall be implemented prior to startup from the fall 2018 refueling outage.

Amendment No.: 322. A publicly-available version is in ADAMS under Accession No. ML18214A706; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–59: The amendment revised the Renewed Facility Operating License and TS.

*Date of initial notice in **Federal Register**:* July 13, 2018 (83 FR 32692).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 2018.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: August 23, 2017, as supplemented by letters dated October 19, 2017, and March 27, 2018.

Brief description of amendments: The amendments revised the Technical Specifications by relocating the explosive gas monitoring instrumentation, explosive gas mixture, and gas decay tanks system requirements to licensee-controlled documents and establishing a gas decay tank explosive gas and radioactivity monitoring program. The amendments also relocated the standby feedwater system requirements to licensee-controlled documents and modified related auxiliary feedwater system requirements.

Date of issuance: September 11, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 282 (Unit No. 3) and 276 (Unit No. 4). A publicly-available version is in ADAMS under Accession No. ML18214A125; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register**:* November 21, 2017 (82 FR 55406). The supplemental letter dated March 27, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 11, 2018.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Unit 1 (WCGS), Coffey County, Kansas

Date of amendment request: June 28, 2017, as supplemented by letters dated February 15, May 29, June 20, and August 30, 2018.

Brief description of amendment: The amendment added new Technical Specification (TS) 3.7.20, ''Class 1E Electrical Equipment Air Conditioning (A/C) System,'' to the WCGS TSs. New TS 3.7.20 includes (1) a limiting condition for operation (LCO) statement, (2) an Applicability statement, during which the LCO must be met, (3) ACTIONS to be applied when the LCO is not met, including Conditions, Required Actions, and Completion Times, and (4) Surveillance Requirements with a specified Frequency to demonstrate that the LCO is met for the Class 1E Electrical Equipment A/C System trains at WCGS. Additionally, the Table of Contents is also revised to reflect the incorporation of new TS 3.7.20.

Date of issuance: September 11, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 219. A publicly-available version is in ADAMS under Accession No. ML18219A564; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–42: The amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* October 3, 2017 (82 FR 46099). The supplemental letters dated February 15, May 29, June 20, and August 30, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 2018.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 1st day of October, 2018.

For the Nuclear Regulatory Commission.

Gregory F. Suber,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–21669 Filed 10–5–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 3 and Updates to Tier 1 Table 2.5.2–3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 143 and 142 to Combined Licenses (COLs), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on September 25, 2018.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 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 *http://www.regulations.gov* and search

for Docket ID NRC–2008–0252. Address questions about NRC dockets to Jennifer Borges telephone: 301–287–9127; email: *Jennifer.Borges@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 *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 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. The request for the amendment and exemption was submitted by letter dated April 20, 2018, and available in ADAMS under Accession No. ML18110A113.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3025; email: *Chandu.Patel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 143 and 142 to COLs, NPF–91 and NPF–92, respectively, to SNC. The exemption is required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow SNC to depart from Tier 1 information. With the requested amendment, SNC sought proposed changes that would revise the Updated Final Safety Analysis Report in the form of departures from the plant-specific Design Control Document (DCD) Tier 2 information and involves changes to plant-specific Tier 1 information with corresponding changes to the associated COL Appendix C information. Specifically, the amendment proposes changes to plant-specific Tier 1 (and COL Appendix C) Table 2.5.2–3, ''PMS Automatically Actuated Engineered Safety Features,'' to revise the nomenclature for ''Auxiliary Spray and Letdown Purification Line Isolation'' and to include ''Component Cooling System Containment Isolation Valve Closure'' in Table 2.5.2–3.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in §§ 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML18232A535.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COL Nos. NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML18232A528 and ML18232A529, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COL Nos. NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML18232A530 and ML18232A532, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated April 20, 2018, SNC requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 18–010, ''Updates to Tier 1 Table 2.5.2–3.''

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML18232A535, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the facility Combined License, as described in the licensee's request dated April 20, 2018. This exemption is related to, and necessary for the granting of License Amendment No. 143 (Unit 3) and No. 142 (Unit 4), which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML18232A535), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated April 20, 2018 (ADAMS Accession No. ML18110A113), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on May 22, 2018 (83 FR 23738). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemptions and issued the amendments that SNC requested on April 20, 2018. The exemption and amendment were issued on September 25, 2018, as part of a combined package to SNC (ADAMS Accession No. ML18232A526).

Dated at Rockville, Maryland, this 3rd day of October 2018.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 4, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2018–21912 Filed 10–5–18; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency for Request for Approval of Special Withdrawal Liability Rules: United Food and Commercial Workers International Union—Industry Pension Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation (''PBGC'') has received a request from the United Food and Commercial Workers International Union—Industry Pension Fund for approval of a plan amendment providing for special withdrawal liability rules. Under PBGC's regulation on Extension of Special Withdrawal Liability Rules, a multiemployer pension plan may, with PBGC approval, be amended to provide for special withdrawal liability rules similar to those that apply to the construction and entertainment industries. Such approval is granted only if PBGC determines that the rules apply to an industry with characteristics that make use of the special rules appropriate and that the rules will not pose a significant risk to the pension insurance system. Before granting an approval, PBGC's regulations require PBGC to give interested persons an opportunity to comment on the request. The purpose of this notice is to advise interested persons of the request and to solicit their views on it.

DATES: Comments must be submitted on or before November 23, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.* Refer to the UFCW Industry Plan in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the UFCW Industry Plan. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026 or calling 202–326–4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Bruce Perlin (*Perlin.Bruce@PBGC.gov*), 202–326–4020, ext. 6818, or Elizabeth Coleman (*Coleman.Elizabeth@PBGC.gov*), ext. 3661, Office of the General Counsel, Suite 340, 1200 K Street NW, Washington, DC 20005–4026; (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020.)

SUPPLEMENTARY INFORMATION:

Background

Section 4203(a) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (ERISA), provides that a complete withdrawal from a multiemployer plan generally occurs when an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan. Under section 4205 of ERISA, a partial withdrawal generally occurs when an employer: (1) Reduces its contribution base units by seventy percent in each of three consecutive years; or (2) permanently ceases to have an obligation under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan, while continuing to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location or to an entity or entities owned or controlled by the employer; or (3) permanently ceases to have an obligation to contribute under the plan for work performed at one or more but fewer than all of its facilities, while continuing to perform work at the facility of the type for which the obligation to contribute ceased.

Although the general rules on complete and partial withdrawal identify events that normally result in a diminution of the plan's contribution base, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute normally does not weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

For construction industry plans and employers, section 4203(b)(2) of ERISA provides that a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under a plan and the employer either continues to perform previously covered work in the jurisdiction of the collective bargaining agreement or resumes such work within 5 years without renewing the obligation to contribute at the time of resumption. In the case of a plan terminated by mass withdrawal (within the meaning of section 4041(A)(2) of ERISA), section 4203(b)(3) provides that the 5-year restriction on an employer's resuming covered work is reduced to 3 years. Section 4203(c)(1) of ERISA applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining agreement. In contrast, the general definition of complete withdrawal in section 4203(a) of ERISA includes the permanent cessation of the obligation to contribute regardless of the continued activities of the withdrawn employer.

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. Under section 4208(d)(1) of ERISA, ''[a]n employer to whom section 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the

employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.'' Under section 4208(d)(2) of ERISA, ''[a]n employer to whom § 4203(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the [PBGC] by regulation.''

Section 4203(f)(1) of ERISA provides that PBGC may prescribe regulations under which plans in other industries may be amended to provide for special withdrawal liability rules similar to the rules prescribed in section 4203(b) and (c) of ERISA. Section 4203(f)(2) of ERISA provides that such regulations shall permit the use of special withdrawal liability rules only in industries (or portions thereof) in which PBGC determines that the characteristics that would make use of such rules appropriate are clearly shown, and that the use of such rules will not pose a significant risk to the insurance system under Title IV of ERISA. Section 4208(e)(3) of ERISA provides that PBGC shall prescribe by regulation a procedure by which plans may be amended to adopt special partial withdrawal liability rules upon a finding by PBGC that the adoption of such rules is consistent with the purposes of Title IV of ERISA.

PBGC's regulations on Extension of Special Withdrawal Liability Rules (29 CFR part 4203) prescribe procedures for a multiemployer plan to ask PBGC to approve a plan amendment that establishes special complete or partial withdrawal liability rules. The regulation may be accessed on PBGC's website (*http://www.pbgc.gov*). Section 4203.5(b) of the regulation requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal liability rules in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

The Request

PBGC received a request from the United Food and Commercial Workers International Union—Industry Pension Fund (the ''Plan''), for approval of a plan amendment providing for special withdrawal liability rules. The Plan provided supplemental information in response to a request from PBGC. PBGC's summary of the actuarial reports provided by the Plan may be accessed on PBGC's website (*http://www.pbgc.gov/prac/pg/other/guidance/multiemployer-notices.html*). A copy of the Plan's submission can be requested from the PBGC Disclosure Officer. The fax number is 202–326–4042. It may also be obtained by writing the Disclosure Officer, PBGC, 1200 K Street NW, Suite 11101, Washington, DC 20005.

In summary, the Plan is a multiemployer pension plan jointly maintained by Local Unions affiliated with the United Food and Commercial Workers International Union (''UFCW'') and employers signatory to collective bargaining agreements with the UFCW. The Plan covers unionized employees who work predominantly in the retail food industry. The Plan's proposed amendment would be effective for withdrawals occurring under ERISA section 4205(a)(1) during the 3-year testing period ending June 30, 2014, or any subsequent plan year and for any withdrawals occurring under sections 4203 and 4205(a)(2) of ERISA on or after July 1, 2013. Thus, the proposed amendment is intended to apply to cessations of the obligation to contribute that have already occurred. Plans may adopt this retroactive relief as a discretionary provision under ERISA section 4203.3(b)(2). There are two employers that may be eligible for relief from withdrawal liability under the proposed amendment if it is approved.

The proposed amendment would create special withdrawal liability rules for employers contributing to the Plan for work performed under a contract or subcontract for services to federal government agencies (''Employer''). The Plan's submission represents that the industry for which the rule is requested has characteristics similar to those of the construction industry. According to the Plan, the principal similarity is that when an Employer loses a government contract, or subcontract, it usually does so through the competitive bidding process, and the applicable federal government agency typically contracts with a successor Employer that is obligated to contribute to the Plan at the same or substantially the same rate for the same employees. The Plan believes the proposed amendment may induce potential new employers to bid on work at a government facility and agree to continue making contributions to the Plan when they otherwise may avoid seeking a contribution obligation to the Plan to avoid potential withdrawal liability.

Under the proposed amendment, the special withdrawal liability rules would apply to an Employer that ceases to have a contribution obligation to the Plan because it loses a governmental contract to a successor Employer (''Successor Employer''), if all the following conditions are met for the 5 plan years immediately following the year the Employer lost the contract.

A complete withdrawal will *not* occur if an Employer loses all its governmental contracts to a Successor Employer, so long as: (1) Substantially all the employees for which the Employer was obligated to contribute to the Plan continue to perform covered work with a Successor Employer; (2) for each of the next 5 plan years the Successor Employer has an obligation to contribute at the same or a higher contribution rate to the Plan; (3) for each of the next 5 plan years the Successor Employer contributes substantially the same contribution base units as did the initial Employer in the plan year immediately prior to the year it lost the contract; and (4) the Employer posts a bond or establishes an escrow account equal to the lesser of the present value of its withdrawal liability or 5 years of installment payments of its withdrawal liability. The Employer *will* have experienced a complete withdrawal if within the 5 plan years following the year the Employer lost the contract, the Successor Employer's contract terminates, and no subsequent Successor Employer assumes the contribution obligations and conditions, or if the Successor Employer fails to meet the contribution conditions.

A partial withdrawal will *not* occur if an Employer loses one or more, but less than all, of its governmental contracts to a Successor Employer, or if it loses all its governmental contracts but continues to have a contribution obligation to the Plan under a collective bargaining agreement, so long as: (1) For each of the next 5 plan years the Successor Employer has an obligation to contribute at the same or a higher contribution rate to the Plan; (2) for each of the next 5 plan years the Successor Employer contributes substantially the same contribution base units as did the initial Employer in the plan year immediately prior to the year it lost the contract; and (3) the Employer posts a bond or establishes an escrow account equal to the lesser of the present value of its partial withdrawal liability or 5 years of installment payments of its withdrawal liability. The Employer *will* have experienced a partial withdrawal if within the 5 plan years following the year the Employer lost the contract, the Successor Employer's contract terminates, and no subsequent Successor Employer assumes the contribution obligations and conditions, or if the Successor Employer fails to meet the contribution conditions.

Alternatively, the proposed amendment provides that an Employer that loses a governmental contract to a Successor Employer will not experience a complete or partial withdrawal if the Successor Employer assumes the Employer's contribution history under the affected contract(s) for the plan year in which the contract is lost and the 5 immediately preceding plan years. Lastly, the Plan's trustees may waive or reduce the bond or escrow requirement if the Employer demonstrates that doing so would not significantly increase the risk of financial loss to the Plan. The Plan's request includes the actuarial data on which the Plan relies to support its contention that the amendment will not pose a significant risk to the insurance system under Title IV of ERISA.

Comments

All interested persons are invited to submit written comments on the pending exemption request. All comments will be made part of the administrative record.

William Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–21801 Filed 10–5–18; 8:45 am]

BILLING CODE 7709–02–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and purpose of information collection: Employee's Certification; OMB 3220–0140.

Section 2 of the Railroad Retirement Act (RRA), provides for the payment of an annuity to the spouse or divorced spouse of a retired railroad employee. For the spouse or divorced spouse to qualify for an annuity, the RRB must determine if any of the employee's current marriage to the applicant is valid.

The requirements for obtaining documentary evidence to determine valid marital relationships are prescribed in 20 CFR 219.30 through 219.35. Section 2(e) of the RRA requires that an employee must relinquish all rights to any railroad employer service before a spouse annuity can be paid.

The RRB uses Form G–346, Employee's Certification, to obtain the information needed to determine whether the employee's current marriage is valid. Form G–346 is completed by the retired employee who is the husband or wife of the applicant for a spouse annuity. Completion is required to obtain a benefit. One response is requested of each respondent. The RRB proposes no changes to Form G–346.

Consistent with 20 CFR 217.17, the RRB uses Form G–346sum, *Employee's Certification Summary,* which mirrors the information collected on Form G–346, when an employee, after being interviewed by an RRB field office representative ''signs'' the form using an alternative signature method known as ''attestation.'' Attestation refers to the action taken by the RRB field office representative to confirm and annotate the RRB's records of the applicant's affirmation under penalty of perjury that the information provided is correct and the applicant's agreement to sign the form by proxy. Completion is required to obtain a benefit. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (83 FR 35032 on July 24, 2018) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employee's Certification.

OMB Control Number: 3220–0140.

Forms submitted: G–346 and G–346sum.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 2 of the Railroad Retirement Act, spouses of retired railroad employees may be entitled to an annuity. The collection obtains information from the employee about the employee's previous marriages, if any, to determine if any impediment exists to the marriage between the employee and his or her spouse.

Changes proposed: The RRB proposes no changes to the forms in the collection.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–346	4,220	5	352
G–346sum	2,100	5	175
Total	6,320		527

2. *Title and Purpose of information collection:* Railroad Separation Allowance or Severance Pay Report; OMB 3220–0173.

Section 6 of the Railroad Retirement Act provides for a lump-sum payment to an employee or the employee's survivors equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The lump-sum is not payable until retirement benefits begin to accrue or the employee dies. Also, Section 4(a–1)(iii) of the Railroad Unemployment Insurance Act provides that a railroad employee who is paid a separation allowance is disqualified for unemployment and sickness benefits for the period of time the employee would have to work to earn the amount of the allowance. The reporting requirements are specified in 20 CFR 209.14.

In order to calculate and provide payments, the Railroad Retirement Board (RRB) must collect and maintain records of separation allowances and severance payments which were subject to Tier II taxation from railroad employers. The RRB uses Form BA–9, Report of Separation Allowance or Severance Pay, to obtain information from railroad employers concerning the separation allowances and severance payments made to railroad employees and/or the survivors of railroad employees. Employers currently have the option of submitting their reports on paper Form BA–9, (or in like format) on a CD–ROM, or by File Transfer Protocol (FTP), or Secure Email. Completion is mandatory. One response is requested of each respondent. The *Previous Requests for Comments:* The RRB has already published the initial 60-day notice (83 FR 35032 on July 24, 2018) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Railroad Separation Allowance or Severance Pay Report.

OMB Control Number: 3220–0173.

Form(s) submitted: BA–9.

Type of request: Extension without change of a currently approved collection.

Affected public: Private Sector; Businesses or other for profits.

Abstract: Section 6 of the Railroad Retirement Act provides for a lump-sum payment to an employee or the employee's survivor equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The collection obtains information concerning the separation allowances and severance payments paid from railroad employers.

Changes proposed: The RRB proposes no changes to Form BA–9.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
BA–9 (Paper)	100	76	127
BA–9 (CD–ROM)	40	76	51
BA–9 (Secure Email)	60	76	76
BA–9 (FTP)	160	76	203
Total	360		457

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or *Brian.Foster@rrb.gov* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Brian Foster,

Clearance Officer.

[FR Doc. 2018–21835 Filed 10–5–18; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84338; File No. SR–BOX–2018–32]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules Relating to Registration and Qualification Examinations Required for Participants That Engage in Trading Activities on the Exchange

October 2, 2018.

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 September 27, 2018, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule 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 relating to registration and respective qualification examinations required for Participants that engage in trading activities on the Exchange. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

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

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

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

1. Purpose

The SEC recently approved a proposed rule change to restructure the FINRA representative-level qualification examination program.[3] The rule change, which will become effective on October 1, 2018, restructures the examination program into a more efficient format whereby all new representative-level applicants will be required to take a general knowledge examination (the Securities Industry Essentials Examination (''SIE'')) and a tailored, specialized knowledge examination (a revised representative-level qualification examination) for their particular registered role. Individuals are not required to be associated with an Exchange or any other self-regulatory organization (''SRO'') member to be eligible to take the SIE. However, passing the SIE alone will not qualify an individual for registration with the

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

Exchange. To be eligible for registration, an individual must also be associated with a firm, pass an appropriate qualification examination for a representative or principal and satisfy the other requirements relating to the registration process.

The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. In particular, the SIE will cover four major areas. The first, ''Knowledge of Capital Markets,'' focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, ''Understanding Products and Their Risks,'' covers securities products at a high level as well as associated investment risks. The third, ''Understanding Trading, Customer Accounts and Prohibited Activities,'' focuses on accounts, orders, settlement and prohibited activities. The final area, ''Overview of the Regulatory Framework,'' encompasses topics such as SROs, registration requirements and specified conduct rules. It's anticipated that the SIE would include 75 scored questions plus an additional 10 unscored pretest questions. The passing score would be determined through methodologies compliant with testing industry standards used to develop examinations and set passing standards.

The restructured program eliminates duplicative testing of general securities knowledge on the current representative-level qualification examinations by moving such content into the SIE. The SIE will test fundamental securities related knowledge, including knowledge of basic products, the structure and function of the securities industry, the regulatory agencies and their functions and regulated and prohibited practices, whereas the revised representative-level qualification examinations will test knowledge relevant to day-to-day activities, responsibilities and job functions of representatives. The SIE was developed in consultation with a committee of industry representatives and representatives of several other SROs. Each of the current representative-level examinations covers general securities knowledge, with the exception of the Research Analyst (Series 86 and 87) examinations.

The Exchange proposes to require that effective October 1, 2018, new applicants seeking to register in a representative capacity with the Exchange must pass the SIE before their registrations can become effective. The Exchange proposes to make the requirement operative on October 1, 2018 to coincide with the effective date of FINRA's requirement.

The Exchange notes that individuals who are registered as of October 1, 2018 are eligible to maintain their registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to October 1, 2018, would also be eligible to maintain those registrations without being subject to any additional requirements, provided they register within two years from the date of their last registration. However, with respect to an individual who is not registered on the effective date of the proposed rule change but was registered within the past two years prior to the effective date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register with the Exchange within four years from the date of the individual's last registration. The Exchange also notes that consistent with IM–2040–2, the Exchange will consider waivers of the SIE alone or the SIE and the representative or principal-level examination(s) for Participants who are seeking registration in a representative- or principal-level registration category.[4]

Lastly, the Exchange proposes to eliminate references in its rules to alternative foreign examination modules. Particularly, the Exchange notes that FINRA recently announced it was eliminating the United Kingdom Securities Representative and the Canadian Securities Representative registration categories, along with the respective associated exams (*i.e.,* Series 17, Series 37 and Series 38).[5] FINRA also stated that it intended to provide individuals who are associated persons of firms and who hold foreign registrations an alternative, more flexible, process to obtain an Exchange representative-level registration.[6] The Exchange believes that there is sufficient overlap between the SIE and foreign qualification requirements to permit them to act as exemptions to the SIE. As such, the Exchange proposes to provide that individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with the Exchange as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain an Exchange representative-level registration. The Exchange notes that FINRA has adopted a similar rule.[7]

The Exchange also proposes to remove the last sentence from Rule 2020(b)(1) and also remove Rule 2020(b)(3) and Rule 2020(c)(5) in their entirety. The Exchange is making these changes in order to conform to FINRA's rules regarding registration requirements.

The Exchange proposes to make a non-substantive conforming changes to the term ''Form U–4'' and ''Form U–5'' throughout the BOX Rulebook. Specifically, BOX proposes to change the term ''Form U–4'' to ''Form U4'' and ''Form U–5'' to ''Form U5'' in order to conform to both the BOX Rules and FINRA rules.[8] Lastly, the Exchange is proposing to amend BOX Rule 2020(d)(1) regarding Principal Status. Currently, the rule states that a representative whose duties are changed as to require registration as a Principal shall be allowed a period of 90 calendar days following such change to pass the appropriate qualification examination. The Exchange proposes to change the number of calendar days from 90 to 120 in order to conform to FINRA's rules. Similarly, the Exchange proposes to change the number of calendar days from 90 to 120 in Rule 2020(d)(2) as well.

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.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] 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,

[4] Pursuant to a Regulatory Services Agreement between FINRA and BOX, FINRA provides BOX certain exam waiver services in responding to exam waiver requests from BOX Participants.

[5] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[6] *Id.*

[7] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[8] *See* FINRA Rule 1010(c).

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

[10] 15 U.S.C. 78f(b)(5).

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) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change will improve the efficiency of the Exchange's examination requirements, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations. FINRA has indicated that the SIE was developed in an effort to adopt an examination that would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. The Exchange also notes that the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity. Lastly, the Exchange notes adopting the SIE requirement is consistent with the requirement recently adopted by FINRA.[12]

The Exchange believes that the changes to the term ''Form U4'' and ''Form U5'' are reasonable as the changes will conform to FINRA's rules and reduce investor confusion. The Exchange also believes that removing and amending certain language from Rule 2020(b)(1), Rule 2020(b)(3), Rule 2020(c)(5) and Rule 2020(d)(1) is reasonable as the changes conform to FINRA's rules regarding registration requirements and will reduce investor 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. The Exchange believes that the proposed rule change, which harmonizes its rules with recent rule changes adopted by FINRA and which is being filed in conjunction with similar filings by the other national securities exchanges, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of these registration requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges.

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 comments on the proposed rule change.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on October 1, 2018 to coincide with the effective date of FINRA's proposed rule change on which the proposal is based.[15] The waiver of the operative delay would make the Exchange's qualification requirements consistent with those of FINRA, as of October 1, 2018. Therefore, the Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.[16]

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.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2018–32 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–BOX–2018–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit

[11] *Id.*

[12] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR–FINRA–2017–007).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See supra* note 3.

[16] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2018–32 and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21787 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Form N–8B–2; SEC File No. 270–186, OMB Control No. 3235–0186

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 (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form N–8B–2 (17 CFR 274.12) is the form used by unit investment trusts (''UITs'') other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor, to comply with the filing and disclosure requirements imposed by section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)). Form N–8B–2 requires disclosure about the organization of a UIT, its securities, the personnel and affiliated persons of the depositor, the distribution and redemption of securities, the trustee or custodian, and financial statements. The Commission uses the information provided in the collection of information to determine compliance with section 8(b) of the Investment Company Act.

Each registrant subject to the Form N–8B–2 filing requirement files Form N–8B–2 for its initial filing and does not file post-effective amendments on Form N–8B–2.[1] The Commission staff estimates that approximately one respondent files one Form N–8B–2 filing annually with the Commission.[2] Staff estimates that the burden for compliance with Form N–8B–2 is approximately 10 hours per filing. The total hour burden for the Form N–8B–2 filing requirement therefore is 10 hours in the aggregate (1 respondent × one filing per respondent × 10 hours per filing).

Estimates of the burden hours are made solely for the purposes of the PRA and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. The information provided on Form N–8B–2 is mandatory. The information provided on Form N–8B–2 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 3, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21830 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

[1] Post-effective amendments are filed with the Commission on the UIT's Form S–6. Hence, respondents only file Form N–8B–2 for their initial registration statement and not for post-effective amendments.

[2] In 2015 the Commission received 3 filings, while in 2016 and 2017, the Commission received 0 filings, respectively. The cumulative 3-year average is, therefore, 1 filing per year.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84341; File No. SR–MSRB–2018–07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change To Amend MSRB Rule G–3, on Professional Qualification Requirements, To Require Municipal Advisor Principals To Become Appropriately Qualified by Passing the Municipal Advisor Principal Qualification Examination

October 2, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 19, 2018 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to amend Rule G–3, on professional qualification requirements, to (i) require persons who meet the definition of a municipal advisor principal, as defined under Rule G–3(e)(i), to pass the Municipal Advisor Principal Qualification Examination (''Series 54 examination'') in order to become appropriately qualified as a municipal advisor principal; (ii) specify that such persons who cease to be associated with a municipal advisor for two or more years at any time after having qualified as a municipal advisor principal must requalify by examination unless a waiver is granted; (iii) add the Series 54 examination to the list of qualification examinations for which a waiver can be sought; (iv) provide that municipal advisor representatives may function as a principal for 120 calendar days without being qualified with the Series 54 examination; and (v) make a technical amendment to Rule G–3(e) to clarify that a municipal advisor principal must pass the Municipal Advisor Representative Qualification Examination (''Series 50 examination'') as a prerequisite to becoming qualified

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

[2] 17 CFR 240.19b–4.

as a municipal advisor principal (collectively the ''proposed rule change''). The MSRB requests that the proposed rule change become effective 30 days from the date of SEC approval.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2018-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the MSRB 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 MSRB 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 MSRB is charged with setting professional qualification standards for municipal advisors. Section 15B(b)(2)(A) of the Act authorizes the MSRB to prescribe ''standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.'' [3] Additionally, Sections 15B(b)(2)(A)(i) [4] and 15B(b)(2)(A)(iii) [5] of the Act also provide that the Board may appropriately classify associated persons of dealers and municipal advisors and require persons in any such class to pass tests prescribed by the Board. The examinations are intended to determine whether an individual meets the MSRB's qualification standards for a particular qualification category. More specifically, the MSRB's professional qualification examinations measure a candidate's knowledge of the business activities, as well as the regulatory requirements, including MSRB rules and federal laws.

Background

In connection with its statutory mandate, beginning Spring 2014, the MSRB set out on a multi-year effort to establish professional qualification requirements for municipal advisor professionals. The MSRB published Notice 2014–08 [6] seeking comment on a proposal to, among other things, establish qualification classifications for municipal advisor professionals; and to require that municipal advisor professionals engaging in municipal advisory activities and those engaging in the management, direction or supervision of a firm's municipal advisory activities pass the Municipal Advisor Representative Qualification Examination (''Series 50 examination'') to be qualified in accordance with MSRB rules. The MSRB stated at that time, at a later date, it would consider a qualification examination for municipal advisor principals.[7] Also, the MSRB noted, ''[i]f such an examination is proposed, it is expected that each municipal advisor principal would, as a prerequisite, be required to pass the municipal advisor representative qualification examination before taking the municipal advisor principal qualification examination.'' [8] On February 26, 2015, among other things, the SEC approved amendments to Rule G–2 to require that no municipal advisor shall engage in municipal advisory activities unless such municipal advisor is qualified in accordance with MSRB rules; and approved Rules G–3(d)(i) and (e)(i) to create two new qualification classifications for municipal advisors: Municipal advisor representative [9] and municipal advisor principal [10] and to require persons meeting the definition of a municipal advisor representative and/or municipal advisor principal to pass the Series 50 examination.[11] In addition, as amended, each municipal advisor would be required to designate at least one individual as a municipal advisor principal who would be responsible for supervising the municipal advisory activities of the municipal advisor and its associated persons.[12]

In the 2014 filing,[13] the MSRB addressed the development of a principal-level examination in response to a commenter's recommendation [14] that the MSRB should make a supervisor examination available before, or simultaneously with the representative examination and eliminate the need for a supervisor to take both examinations. The MSRB articulated that it was ''important that the representative examination be introduced prior to any principal examination because the [representative] examination would determine the basic competency of those individuals who are engaged in municipal advisory activity.'' [15] More importantly, the MSRB noted, and has continued to communicate to municipal advisor professionals that the MSRB would consider an examination for principals at a later date.

Now that the MSRB has concluded the launch of the Series 50 examination and the one-year grace period has ended [16] for municipal advisor representatives and municipal advisor principals to pass the Series 50 examination while continuing to engage in municipal advisory activities and the supervision of municipal advisory activities, the MSRB is in the process of

[3] *See* 15 U.S.C. 78*o*–4(b)(2)(A).

[4] *See* 15 U.S.C. 78*o*–4(b)(2)(A)(i).

[5] *See* 15 U.S.C. 78*o*–4(b)(2)(A)(iii).

[6] *See* MSRB Notice 2014–08 (Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors) (March 17, 2014).

[7] *Id.*

[8] *Id.*

[9] Under Rule G–3(d) a ''municipal advisor representative'' is defined as ''a natural person associated with a municipal advisor who engages in municipal advisory activities on the municipal advisor's behalf, other than a person performing only clerical, administrative support or similar functions.''

[10] Under Rule G–3(e) a ''municipal advisor principal'' is defined as ''a natural person associated with a municipal advisor who is qualified as a municipal advisor representative and is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons.''

[11] *See* Exchange Act Release No. 74384 (February 26, 2015), 80 FR 11706 (March 4, 2015) (SR–MSRB–2014–08) (Notice of Filing of Amendment No. 1 and Amendment No. 2 and Order Granting Accelerated Approval).

[12] Rule G–44 sets forth the obligation of municipal advisor principals to supervise the municipal advisory activities of the municipal advisor and its associated persons to ensure compliance with applicable securities laws and regulations, including applicable Board rules.

[13] *See* Exchange Act Release No. 73708 (December 1, 2014), 79 FR 72225 (December 5, 2014) (SR–MSRB–2014–08) (Notice of Filing of a Proposed Rule Change).

[14] On March 17, 2014, the MSRB published a request for public comment on establishing professional qualification requirements for municipal advisors. *See supra* note 6. In response, the MSRB received thirty-five comment letters. One commenter recommended the MSRB make available a principal-level examination before the representative-level examination. *See* Letter from Linda Fan, Managing Partner, Yuba Group to Ronald Smith, Corporate Secretary, Municipal Securities Rulemaking Board (April 28, 2014).

[15] *See supra* note 13.

[16] The MSRB proposed a one-year grace period for municipal advisor representatives and municipal advisor principals to satisfy the qualification requirements pursuant to Rule G–3 in order to provide an orderly transition to the new qualification requirements. *See supra* note 13.

formalizing the development of a principal-level examination.

Proposed Amendments

The MSRB is proposing to adopt Rule G–3(e)(ii)(A) to establish additional qualification requirements for municipal advisor principals. Specifically, the proposed amendments would require those who meet the definition of a municipal advisor principal, as defined under Rule G–3(e)(i), (*i.e.,* persons engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons) to pass both the Series 50 examination and Series 54 examination prior to becoming qualified as a municipal advisor principal. Additionally, the proposed amendments to Rule G–3(e)(ii) would also prescribe that the passing score shall be determined by the Board. The establishment of qualification requirements for municipal advisor principals would assist in ensuring that such persons have a specified level of competency that is appropriate in the public interest and for the protection of investors, and municipal entities and obligated persons. Additionally, the establishment of the Series 54 examination is consistent with the intent of the establishment of the Series 50 examination ''to mitigate problems associated with advice provided by those individuals without adequate training or qualifications,'' in that municipal advisor principals should be appropriately qualified to supervise such activities of municipal advisor representatives.[17]

Proposed Rule G–3(e)(ii)(B) would require any person qualified as a municipal advisor principal who ceases to be associated with a municipal advisor for two or more years at any time after having qualified as a municipal advisor principal to requalify by examination by passing both the Series 50 examination and Series 54 examination prior to becoming qualified as a municipal advisor principal, unless a waiver is granted pursuant to Rule G–3(h)(ii), on waiver of qualification requirements.[18] Accordingly, the MSRB is proposing to amend Rule G–3(h)(ii) and Supplementary Material .02 to provide that the MSRB will consider waiving the qualification requirements of a municipal advisor principal in extraordinary cases where the applicant was previously qualified as a municipal advisor principal by passing both the Series 50 examination and Series 54 examination and the person's qualification lapsed. Proposed Rule G–3(e)(ii)(C) would allow a municipal advisor principal to be designated a municipal advisor principal and to function in that capacity for a period of 120 calendar days without having passed the Series 54 examination.[19]

The MSRB is also proposing a technical amendment to Rule G–3(e)(i), on definitions, to establish as a separate rule provision, and to clarify, that qualification as a municipal advisor representative is a prerequisite to obtaining qualification as a municipal advisor principal. The MSRB is also proposing a technical amendment to renumber the rule provisions under Rule G–3(e).

A more detailed summary of the Series 54 examination under development is outlined below.

Development of the Municipal Advisor Principal Qualification Examination

The MSRB believes that professional qualification examinations, such as the Series 50 examination and Series 54 examination, are established means for determining the competency of individuals in a particular qualification classification. The MSRB has, in consultation with the MSRB's Professional Qualification Advisory Committee, developed the Series 54 examination to ensure that a person seeking to qualify as a municipal advisor principal satisfies a specified level of competency and knowledge by measuring a candidate's ability to apply the applicable federal securities laws, including MSRB rules to the municipal advisory activities of a municipal advisor. The MSRB has adhered to recognized test development standards by performing a job study to determine the appropriate topics to be covered and weighting of such topics on the Series 54 examination.[20] From October 17, 2017 through November 7, 2017, the MSRB conducted a job study of municipal advisor principals via a web-based survey. The job study was sent to the primary and optional regulatory contacts at over 500 municipal advisors, representing every municipal advisor with at least one person qualified with the Series 50 examination. The MSRB received 212 responses to the job study, representing data from municipal advisor principals from different-sized municipal advisors in different areas of the country.

The MSRB will announce the effective date of the permanent Series 54 examination at a later date in an MSRB Notice published on *MSRB.org.*[21] However, in advance of the permanent version of the Series 54 examination, the MSRB anticipates conducting a pilot of the Series 54 examination, the results of which will be used to determine the passing score for the permanent Series 54 examination. Prior to the launch of the pilot version of the Series 54 examination, the MSRB will file a content outline with the SEC describing: The topics on the examination; the percentage of the examination devoted to each topic area; and the number of questions that will appear on the examination. The content outline will also contain sample examination questions and a list of reference materials to assist individuals in preparation for the examination. To provide persons who function as municipal advisor principals with sufficient time to satisfy the new qualification requirement, consistent with the implementation process for the Series 50 examination, the MSRB proposes a one-year grace period from the effective date of the Series 54 examination for such persons to pass the examination and become appropriately qualified as municipal advisor principals. During this one-year grace period, a person functioning as a municipal advisor principal would be permitted to continue to engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons so long as such person is qualified with the Series 50 examination. This one-year grace period

[17] *See supra* note 13.

[18] The Board will review waiver requests on their individual merits, taking into consideration relevant facts presented by an applicant.

[19] On June 8, 2018, the MSRB filed a proposed rule change with the SEC for immediate effectiveness, which, in part, extends the period from 90 calendar days to 120 calendar days for municipal securities representatives to function in a principal capacity without passing a principal examination as long as the municipal securities representative has at least 18 months of experience within the five-year period immediately preceding the designation as a principal. The MSRB is not extending this experience requirement to a municipal advisor representative in order to function as a municipal advisor principal for 120 calendar days because, given the typical size of a municipal advisor firm, coupled with the newness of the qualification classifications and development of professional qualification requirements for municipal advisor professionals, such a requirement could pose an undue burden on a municipal advisor's operational needs.

[20] A job study is an assessment of the essential skills that are required to complete a particular function and is used as a basis for defining relevant or suitable content for exam questions and in preparing exam specifications, which refer to the emphasis or weight given to topic areas within an examination.

[21] The effective date of the Series 54 examination will be the date the Series 54 examination becomes permanently available.

is designed to ensure that those persons functioning as a municipal advisor principal can prepare for and pass the Series 54 examination without causing considerable disruption to the business of the municipal advisor. After the one-year grace period, a municipal advisor representative would only be permitted to function in the capacity of a municipal advisor principal, after being so designated, for a period of 120 days without being a qualified municipal advisor principal.

Grandfathering

Consistent with the requirement that all municipal advisor representatives and municipal advisor principals pass the Series 50 examination, the proposed rule change would require those who meet the definition of a municipal advisor principal, as defined under Rule G–3(e), to pass the Series 54 examination regardless of whether such persons have passed other MSRB or MSRB-recognized examinations (such as the Series 53 or Series 24). The MSRB does not intend to waive the principal-level requirement or grandfather individuals who have passed such other examinations or who have experience in functioning in a supervisory capacity. The MSRB believes that, as consistent with the professional qualification standards for the municipal advisor representative-level examination, each municipal advisor principal should demonstrate a specified level of competency of the regulatory requirements and application thereof to the municipal advisory activities of a municipal advisor by passing a principal-level examination.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(A) of the Act,[22] which authorizes the MSRB to prescribe ''standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons'' and Sections 15B(b)(2)(A)(i)[23] and 15B(b)(2)(A)(iii)[24] of the Act, which provides that the Board may appropriately classify associated persons of dealers and municipal advisors and require persons in any such class to pass tests prescribed by the Board. Professional qualification examinations are an established means for demonstrating that municipal advisor professionals possess the specified level of competency necessary to engage in or supervise municipal advisory activities. The proposed amendments to Rule G–3(e) to require municipal advisor principals to pass the Series 54 examination, and the requirement to pass the Series 50 examination as a prerequisite to the Series 54 examination, is in furtherance of establishing professional qualification standards. The MSRB's professional qualification examinations are designed to measure knowledge of the business activities and the regulatory requirements under the federal securities laws, including MSRB rules, applicable to a particular qualification classification, which is in furtherance of this provision of the Act.

The MSRB also believes the proposed amendments are in accordance with Section 15B(b)(2)(C) of the Act,[25] which requires, among other things, that MSRB rules ''be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . and, in general, to protect investors, municipal entities, obligated persons, and the public interest . . .'' The MSRB notes that requiring municipal advisor principals to pass the Series 54 examination will protect investors, municipal entities and obligated persons by ensuring municipal advisor principals demonstrate a specified level of competency of the regulatory requirements and application thereof to the municipal advisor's municipal advisory activities by passing a principal qualification examination. Additionally, the proposed rule change furthers the stated objective of Section 15B(b)(2)(C) of the Act to foster the prevention of fraudulent practices by enhancing the overall professional qualification standards of municipal advisor principals—recognizing the important role proper supervision of a municipal advisor's activities and that of its associated persons play in the protection of the municipal securities market.

Additionally, Section 15B(b)(2)(L)(iv) of the Act, requires that MSRB rules not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.[26] The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(L)(iv) of the Act in that, while the proposed rule change would affect all municipal advisors, including small municipal advisors, the regulatory burden that results is necessary and appropriate in order to establish the specified level of competence of those individuals engaged in the management, direction or supervision of the municipal advisory activities of a municipal advisor and its associated persons. Furthermore, the MSRB believes that establishing a specified level of competence is necessary for the protection of investors, municipal entities, and obligated persons in that such competence promotes compliance with the rules and regulations governing the conduct of municipal advisors.

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

Section 15B(b)(2)(C) of the Act[27] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In determining whether this standard has been met, the MSRB has been guided by the Board's adopted policy to more formally integrate economic analysis into the rulemaking process. In accordance with this policy, the Board has evaluated the potential impacts of the proposed rule change, including in comparison to reasonable alternative regulatory approaches.[28] The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB currently requires any natural person associated with a municipal advisor who intends to engage in municipal advisory activities on behalf of the municipal advisor and those who supervise the municipal advisory activities of the municipal advisor to pass the Series 50 examination prior to being qualified as a municipal advisor representative and a municipal advisor principal, respectively.

As previously indicated, once the Series 54 examination is permanently available, a municipal advisor principal will be required to pass both the Series 50 examination and Series 54 examination prior to becoming qualified as a municipal advisor principal. The

[22] 15 U.S.C. 78*o*–4(b)(2)(A).

[23] 15 U.S.C. 78*o*–4(b)(2)(A)(i).

[24] 15 U.S.C. 78*o*–4(b)(2)(A)(iii).

[25] 15 U.S.C. 78*o*–4(b)(2)(C).

[26] 15 U.S.C. 78*o*–4(b)(2)(L)(iv).

[27] 15 U.S.C. 78*o*–4(b)(2)(C).

[28] Policy on the Use of Economic Analysis in MSRB Rulemaking is available at *http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx.* In evaluating whether there was a burden on competition, the Board was guided by its principles that required the Board to consider costs and benefits of a rule change, its impact on capital formation and the main reasonable alternative regulatory approaches.

Series 54 examination is intended to determine whether a municipal advisor principal meets a specified level of competency. The main benefit of the Series 54 examination is to ensure protection of municipal entities and obligated persons who employ municipal advisors to engage in municipal advisory activities on their behalf—the benefits which should accumulate over time. The establishment of the Series 54 examination as a professional qualification requirement for municipal advisor principals is in furtherance of the mandate to protect municipal entities and obligated persons by requiring that individuals engaged in the management, direction or supervision of the municipal advisory activities of a municipal advisor and its associated persons demonstrate a specified level of competence of the rules and regulations governing such municipal advisory activities. The establishment of professional qualification standards effectively will serve to benefit municipal advisors as such standards for municipal advisor principals are designed to ensure that any person that supervises, manages or directs the municipal advisory activities of a municipal advisor and its associated persons understands the application of the federal securities laws to a municipal advisor's municipal advisory activities in order to safeguard the municipal advisor from conduct that would violate the federal securities laws.

The MSRB recognizes that municipal advisors would incur programmatic costs associated with the proposed Series 54 examination requirement, including costs to meet standards of training, experience and competence.[29] Currently, the number of municipal advisor professionals who have passed the Series 50 examination and are associated persons of municipal advisors is about 3,360. Based on the number of registered municipal advisors and associated persons currently qualified with the Series 50 examination to act in the capacity of a municipal advisor principal, the MSRB estimates that 650 persons will likely take the Series 54 examination. The MSRB also estimates the total costs incurred for taking the examination should be no more than $715 per each municipal advisor principal.[30] Therefore, the estimated total costs to the industry to implement the proposed Series 54 examination would be around $465,000.

The Act provides that MSRB rules may not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons provided that there is robust protection of investors against fraud.[31] The MSRB is sensitive to the potential impact the regulatory requirements contained in the proposed rule change may have on small municipal advisors and recognizes that the cost of complying with the requirements of the proposed rule change may be proportionally higher for certain small firms as the incremental cost associated with the qualification examination requirement may represent a greater percentage of annual revenues for a small firm. To avoid potential disruption to a municipal advisor's business activities, which could impact revenue, the proposed rule change would provide a one-year grace period for persons to prepare for and pass the Series 54 examination, thus allowing small municipal advisors the flexibility to plan around existing and ongoing business engagements. Furthermore, the cost for a small municipal advisor of having an associated person prepare for and take the Series 54 examination would be incurred only once for each municipal advisor principal, assuming such person(s) passed the examination on the first occasion. Accordingly, the MSRB believes that the proposed rule change is consistent with the Act.

The MSRB has considered whether it is possible that the costs associated with preparing for and taking the municipal advisor principal-level qualification examination, could possibly affect the competitive landscape by leading some municipal advisory firms and principals to exit the market, curtail their activities or consolidate with other firms.[32] However, the market for municipal advisory services is likely to remain competitive despite the potential exit of some municipal advisors (including small entity municipal advisors), consolidation of municipal advisors, or deterrence of new entrants into the market. A recent study by Bergstresser and Luby (July 2018) on the landscape of the municipal advisory services in the post Dodd-Frank Act era found that while the number and types of municipal advisors have changed over the last few years, the number of municipal advisor professionals has remained steady.[33] It appears that municipal entities and obligated persons are still being serviced by a similar-sized universe of active municipal advisory professionals even as the name and location of the firms that they have worked at may have changed.

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

Written comments were neither solicited nor received.

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

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

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

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2018–07 on the subject line.

Paper Comments

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

[29] As with the Series 50 examination, the costs of preparing for and taking the proposed Series 54 examination would be incurred only once for each municipal advisor principal, assuming the principal passed the examination on the first occasion.

[30] This total estimated amount includes $265 to take the examination and $450 to obtain study materials to prepare for the examination. Based on MSRB's research, the study material/package prices for the Series 50 examination currently range from $90 to $450, depending on the vendors. To be conservative, the MSRB chose the highest amount for the cost estimate to prepare for and take the proposed Series 54 examination.

[31] 15 U.S.C. 78*o*–4(b)(2)(L)(iv).

[32] For example, some municipal advisors may determine to consolidate with other municipal advisors in order to benefit from economies of scale rather than to incur separately the costs associated with the proposed rule change. Others may exit the market, rather than incurring the cost of preparing for and taking a qualification examination.

[33] *https://www.brookings.edu/wp-content/uploads/2018/04/Berg-Luby-2018-20180716.pdf.*

All submissions should refer to File Number SR–MSRB–2018–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2018–07 and should be submitted on or before October 30, 2018.

For the Commission, pursuant to delegated authority.[34]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21782 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17f–1(b); SEC File No. 270–028, OMB Control No. 3235–0032

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17f–1(b) (17 CFR 240.17f–1(b)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Under Rule 17f–1(b) under the Exchange Act, approximately 10,000 entities in the securities industry are registered in the Lost and Stolen Securities Program (''Program''). Registration fulfills a statutory requirement that entities report and inquire about missing, lost, counterfeit, or stolen securities. Registration also allows entities in the securities industry to gain access to a confidential database that stores information for the Program.

The Commission staff estimates that 10 new entities will register in the Program each year. The staff estimates that the average number of hours necessary to comply with Rule 17f–1(b) is one-half hour. Accordingly, the staff estimates that the total annual burden for all participants is 5 hours (10 × one-half hour). The Commission staff estimates that compliance staff work at subject entities results in an internal cost of compliance, at an estimated hourly wage of $283, of $141.50 per year per entity (.5 hours × $283 per hour = $141.50 per year). Therefore, the aggregate annual internal cost of compliance is approximately $1,415 ($141.50 × 10 = $1,415).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 3, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21833 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84343; File No. SR–ICEEU–2018–013]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to F&O Risk Policies

October 2, 2018.

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 September 18, 2018, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule changes pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii) thereunder,[4] so that the proposal was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes to adopt a new F&O Risk Policy and related procedures to consolidate and replace certain existing risk policies related to F&O Contracts. The revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.[5]

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

In its filing with the Commission, ICE Clear Europe 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

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the ''Rules'').

statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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

(a) Purpose

ICE Clear Europe is proposing to adopt a new F&O Risk Policy and related F&O Risk Procedures. The new F&O Risk Policy and F&O Risk Procedures are intended to consolidate and replace several existing ICE Clear Europe F&O policies: The Financials & Softs Backtesting Policy, Energy Backtesting Policy, Financials & Softs Margin Requirement Policy, Energy Margin Requirements Policy, Intraday Risk Management Policy and Wrong Way Risk Policy (collectively, the ''Consolidated Policies'').

The F&O Risk Policy and F&O Risk Procedures collectively are intended to restate and reorganize the Consolidated Policies, without making substantive changes to the current risk management practices and procedures set out in the Consolidated Policies used by the Clearing House with respect to F&O Contracts. ICE Clear Europe believes that the new policy and procedures will create a simpler and more consistent documentation structure for its F&O risk management practices and procedures.

The F&O Risk Policy outlines the Clearing House approach to the following risk management matters for F&O Contracts:

- Core initial margin calculation and the key components of the margin model for F&O Contracts
- Margin period of risk
- Procyclicality considerations
- Additional initial margin for various circumstances, including concentration risk, specific wrong way risk, stress margin, shortfall margin, intraday buffer margin and capital to margin ratio
- Additional discretionary initial margin
- Margin call and collection procedures
- Intraday risk monitoring, including intraday margin calls [6]
- Monitoring of IM parameters and margin performance
- Backtesting of margin requirements
- Stress testing of margin requirements
- Sizing and review of the F&O guaranty fund [7]
- Policy governance and exception handling.

The F&O Risk Procedures set out further detail concerning the implementation of these risk management principles, including further details on the operation of F&O initial margin and F&O Guaranty Fund models, consistent with the current approach taken by the Clearing House. As with the existing Consolidated Policies, certain additional procedure or methodological aspects of risk management arrangement are set out in existing margin model and other model documentation, which are not changed by these amendments.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act [8] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [9] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The amendments are restating, in a clearer and more concise form, the Clearing House's risk management policies with respect to F&O Contracts, including with respect to calculation of initial margin and the F&O Guaranty Fund, and related procedures for stress testing and backtesting. The revised policy does not substantively change the current risk management practices and procedures of the Clearing House. In ICE Clear Europe's view, the amendments are therefore consistent with the prompt and accurate clearance and settlement of F&O Contracts, consistent with the current operations of the Clearing House, should not affect the safeguarding of funds and securities in the custody or control of the Clearing House or for which it is responsible, and are generally consistent with the public interest and the protection of investors, consistent with the current operations of the Clearing House. Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).[10]

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

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to consolidate and restate the Clearing House's existing risk policies and procedures with respect to F&O Contracts. The amendments do not substantively change the Clearing House's risk policies and procedures, and accordingly should not affect the rights or obligations of F&O Clearing Members. As a result, ICE Clear Europe does not believe the amendments will affect the cost of clearing for F&O Clearing Members or other market participants, the market for cleared services generally or access to clearing by F&O Clearing Members or other market participants, or otherwise affect competition among F&O Clearing Members or market participants.

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

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b–4 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.

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:

[6] ICE Clear Europe has separately filed certain proposed rule changes relating to intraday margin with respect to certain F&O contracts. See SR–ICEEU–2018–012.

[7] The F&O Risk Policy and F&O Risk Procedures do not replace the separate F&O Guaranty Fund Policy.

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1(b)(3)(F).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2018–013 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–ICEEU–2018–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation#rule-filings.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2018–013 and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84339; File No. SR–ISE–2018–81]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish New Pricing for Flash Orders

October 2, 2018.

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 September 18, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to establish new pricing for Flash Orders within Section I of the Schedule of Fees and eliminate Section IV.G. of the Exchange's Schedule of Fees.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the 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.

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

[2] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange proposes to establish new fees for Flash Orders[3] on ISE and remove the current pricing at Section IV.G of the Exchange's Schedule of Fees applicable to Flash Orders. The Exchange is proposing to relocate its pricing for Flash Orders within Section I, entitled ''Regular Order Fees and Rebates.'' The Exchange also proposes to amend the Flash Order definition in the Preface of the Schedule of Fees. The Exchange proposes to reserve Section IV.G.

Definition of a Flash Order

The Exchange proposes to add further detail to the definition of Flash Orders within the Preface of the Schedule of Fees to indicate the applicability of the pricing. Today, the Exchange assesses the applicable ''Taker'' Fee for the initiation of a Flash Order and does not asses any ''Maker'' Fee for responses.[4] The Exchange proposes to amend the definition of the term Flash Order by stating, unless otherwise noted in Section I pricing, Flash Orders will be assessed the applicable ''Taker'' Fee for the initiation of a Flash Order and will be paid/assessed the applicable ''Maker'' Rebate/Fee for responses.[5] The Exchange believes that adding this language will make clear what fee or rebate applies when an order initiates a Flash Order and when an order responds to a Flash Order.

The Exchange believes that Flash Orders, which initiate auctions, should be treated as ''Taker'' because the Member would be removing liquidity on ISE in the event the Member's interest was exposed as a Flash Order. A Member responding to a Flash Order would therefore be providing liquidity when executing against the Flash Order and therefore should be assessed a

[3] Nasdaq ISE's Schedule of Fees currently defines a ''Flash Order'' as an order that is exposed at the National Best Bid and Offer by the Exchange to all Members for execution prior to routing the order to another exchange or cancelling it, as provided under Supplementary Material .02 to ISE Rule 1901.

[4] However, the Exchange would pay any rebate offered in its Schedule of Fees. Today, the Maker Rebate is offered to Market Makers that qualify for the Market Maker Plus Tier.

[5] The Market Maker would not be assessed the $0.10 per contract Section I Maker Fee where the Market Maker participates in the Market Maker Plus program. A Market Maker would be assessed the $0.10 per contract fee in symbols where the Market Maker is not quoting. If the Market Maker executed a Flash Order contra a Priority Customer, the Market Maker would qualify for the $0.05 credit in addition to any Market Maker Plus tier rebate.

Maker Fee. The Exchange believes that Flash Orders encourage Members to price orders fairly to obtain a local execution on ISE.

Section 1 Amendments

The Exchange proposes to eliminate the Flash Order pricing within Section IV. G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees.

The Exchange proposes to memorialize that any market participant's order that initiates a Flash Order will be assessed the appropriate Taker Fee in Section I of the Schedule of Fees.[6] The Exchange also proposes a new fee such that a market participant responding to a Flash Order will be paid/assessed the appropriate Maker Rebate [7]/Fee in Section I of the Schedule of Fees.[8] The Exchange proposes to pay a credit of $0.05 per contract to a market participant responding to a Flash Order in a Select or Non-Select Symbol contra a Priority Customer. The Exchange notes that the $0.05 per contract credit would be paid in addition to the discounted Market Maker tiers in Section IV.D, as is the case today and any Market Maker Plus rebates would also be paid.

Today, all market participants are being assessed a Taker Fee. Today, no market participant responding to a Flash Order is assessed a Maker Fee in Section I. Today a credit of $0.05 per contract is paid to a market participant trading against a Priority Customer, Professional Customer or Preferenced Priority Customer [9] in a Select Symbol or a Professional Customer in a Non-Select Symbol. With this proposal, Taker Fees would continue to be assessed to a market participant's order that initiates a Flash Order. With this proposal, a Maker Fee would be assessed to all market participants responding to a Flash Order, except a Priority Customer.[10] With this proposal, market participants executing against a Professional Customer in a Non-Select Symbol would no longer be paid a $0.05 per contract credit. The $0.05 per contract credit would now be paid to market participants that executed against Priority Customers in Select and Non-Select Symbols, in addition to the discounted Market Maker tiers in Section IV.D. The Exchange proposes to add language to make this clear in the Schedule of Fees within note 6. The Exchange proposes to add a new note 17 and state, ''A market participant's order which initiates a Flash Order will be assessed the appropriate Taker Fee in Section I. Market participants responding to a Flash Order will be paid/assessed the appropriate Maker Rebate/Fee in Section I. In addition to aforementioned fees, a credit of $0.05 per contract will be paid to a market participant responding to a Flash Order in a Select or Non-Select Symbols which executes contra a Priority Customer.''

The Exchange believes that the proposal will bring more clarity to the Schedule of Fees with respect to Flash Orders. Also, the Exchange's proposal is intended to incentivize all ISE Members initiate or respond to a Flash Order contra a Priority Customer by submitting interest on ISE.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Definition of a Flash Order

The Exchange's proposal to amend the definition of Flash Orders within the Preface is reasonable because it will add greater transparency to the applicability of the fees. The Exchange believes that indicating how the Exchange will apply Maker or Taker Fees to Flash Orders will bring greater transparency to the manner in which these fees are assessed. This amendment is equitable and not unfairly discriminatory as the Exchange will uniformly assess the Maker and Taker Fees in Section I as described in the Flash Orders definition to Members that either initiate or respond to the Flash Order.

The Exchange believes that Flash Orders, which initiate auctions, should be treated as ''Taker'' because the Member would be removing liquidity on ISE in the event the Member's interest was exposed as a Flash Order. A Member responding to a Flash Order would therefore be providing liquidity when executing against the Flash Order and therefore should be assessed a Maker Fee. The Exchange believes that Flash Orders encourage Members to price orders fairly to obtain a local execution on ISE.

Section 1 Amendments

The Exchange's proposal to eliminate Flash Order pricing within Section IV.G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees is reasonable. The Exchange's proposal will uniformly pay a credit of $0.05 per contract to any market participant responding to a Flash Order in a Select or Non-Select Symbol which executes contra a Priority Customer. Today, the Exchange pays a credit of $0.05 per contract in certain circumstances such as when trading against a Priority Customer or a Professional Customer or a Preferenced Priority Customer [13] in a Select Symbol. Also, a $0.05 per contract credit is paid when trading against a Professional Customer in a Non-Select Symbol. Although the Exchange would not pay a credit of $0.05 per contract to a market participant trading against a Professional Customer in a Select Symbol or a Non-Select Symbol, the

[6] For Select Symbols the Taker Fee is currently $0.45 per contract for Market Makers, $0.46 per contract for Non-Nasdaq ISE Market Maker (FarMM), Firm Proprietary/Broker-Dealer and Professional Customer and $0.44 per contract for Priority Customer, except in SPY, QQQ, IWM and VXX where the fee shall be $0.40 per contract. For Non-Select Symbols the Taker Fee would be $0.25 per contact for Market Maker, subject to tier discounts in Section IV.D of the Schedule of Fees, $0.20 per contract for Market Maker orders sent by an Electronic Access Member, $0.72 per contract for a Non-Nasdaq ISE Market Maker (FarMM), Firm Proprietary/Broker-Dealer and Professional Customer Priority Customers are assessed no transaction Taker Fee in Non-Select Symbols.

[7] *See* note 4 above.

[8] For Select Symbols the Maker Fee is currently $0.10 per contract for Market Makers, except that (i) Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in the table within Section I of the Schedule of Fees and will instead receive a rebate based on the applicable tier for which they qualify; (ii) no fee will be charged or rebate provided when trading against non-Priority Customer Complex Orders that leg into the regular order book; and (iii) $0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer Complex Orders that leg into the regular order book, $0.10 per contract for Non-Nasdaq ISE Market Maker (FarMM), except that a $0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer complex orders that leg into the regular order book, $0.10 per contract for Firm Proprietary/Broker-Dealer and Professional Customer and no fee for Priority Customer. For Non-Select Symbols the Maker Fee would be $0.25 per contact for Market Maker, subject to tier discounts in Section IV.D of the Schedule of Fees, $0.20 per contract for Market Maker orders sent by an Electronic Access Member, $0.72 per contract for a Non-Nasdaq ISE Market Maker (FarMM), Firm Proprietary/Broker-Dealer and Professional Customer Priority Customers are assessed no transaction Maker Fee in Non-Select Symbols.

[9] Credit applies to a Nasdaq ISE Market Maker when trading against a Priority Customer order that is preferenced to that Market Maker.

[10] Priority Customers are not assessed Maker Fee within Section I today.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] Today, the credit applies to a Nasdaq ISE Market Maker when trading against a Priority Customer order that is preferenced to that Market Maker.

Exchange would uniformly pay all market participants a $0.05 per contract credit when transacting a Flash Order in either a Select or Non-Select Symbol, provided that the contra-side to the transaction is a Priority Customer. The Exchange does not believe that it is unfairly discriminatory to pay a credit only when trading against a Priority Customer Order and not paying a credit when transacting contra a Professional Customer because Professional Customers, unlike Priority Customers, have access to sophisticated trading systems that contain functionality not available to Priority Customers. Also, Professional Customers have the same technological and informational advantages as broker-dealers trading for their own account. The Exchange believes that Professional Customers, who are considered sophisticated algorithmic traders effectively compete with Market Makers and broker-dealers [14] without the obligations of either.

Also, the Exchange would now begin to assess a Maker Fee to all market participants responding to a Flash Order, except Priority Customers. While the Exchange would now assess Maker Fees if responding to a Flash Order, market participants also have the opportunity with this proposal to receive a $0.05 per contract credit for responding to a Priority Customer in Non-Select Symbols. The Exchange believes that assessing the Maker Fee is reasonable because the Exchange believes that there is more opportunity to earn a credit. The Exchange notes that Priority Customers are assessed no Maker Fee. The Exchange does not believe that it is unfairly discriminatory to not assess Priority Customers a Maker Fee because Priority Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange's proposal to eliminate Flash Order pricing within Section IV.G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees is equitable and not unfairly discriminatory. Although the Exchange would not pay a credit of $0.05 per contract to a market participant trading against a Professional Customer in a Select Symbol or a Professional Customer in a Non-Select Symbol, the Exchange would uniformly pay all market participants a $0.05 per contract credit when transacting a Flash Order in either a Select or Non-Select Symbol, provided that the contra-side to the transaction is a Priority Customer. The Exchange believes that it is equitable and not unfairly discriminatory to assess market participants who respond to a Flash Order a Section I Maker Fee because the Exchange would be uniformly assessing the fee uniformly to all market participants. The Exchange does not believe that it is unfairly discriminatory to pay a credit only when trading against a Priority Customer Order and not another type of market participant because unlike other order flow, Priority Customer Order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange believes that the proposed changes provide all market participants that trade on ISE an opportunity to earn an additional rebate when executing against Priority Customer Orders.

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 is amending existing Flash Order pricing to more uniformly apply this pricing to all market participants and therefore does not believe this proposal will cause an undue burden on inter-market competition. The Exchange believes that the proposed pricing remains competitive. The Exchange notes that Professional Customers, unlike Priority Customers, have access to sophisticated trading systems that contain functionality not available to Priority Customers. Also, Professional Customers have the same technological and informational advantages as broker-dealers trading for their own account. The Exchange believes that Professional Customers, who are considered sophisticated algorithmic traders effectively compete with Market Makers and broker-dealers [15] without the obligations of either. Priority Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers.

The Exchange's proposal to eliminate Flash Order pricing within Section IV.G of the Schedule of Fees and relocate and amend its current Flash Order pricing within Section I of the Schedule of Fees does not impose an undue burden on competition. Although the Exchange would not pay a credit of $0.05 per contract to a market participant trading against a Professional Customer in a Select Symbol or a Non-Select Symbol, the Exchange would uniformly pay all market participants a $0.05 per contract credit when transacting a Flash Order in either a Select or Non-Select Symbol, provided that the contra-side to the transaction is a Priority Customer. The Exchange believes that it does not impose an undue burden on competition to assess market participants who respond to a Flash Order a Section I Maker Fee because the Exchange would be uniformly assessing the fee uniformly to all market participants. The Exchange does not believe that it is unfairly discriminatory to pay a credit only when trading against a Priority Customer Order because this type of order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange notes that Professional Customers, unlike Priority Customers, have access to sophisticated trading systems that contain functionality not available to Priority Customers. Also, Professional Customers have the same technological and informational advantages as broker-dealers trading for their own account. The Exchange believes that Professional Customers, who are considered sophisticated algorithmic traders effectively compete with Market Makers and broker-dealers [16] without the obligations of either. Priority Customer liquidity enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which attracts Market Makers. The Exchange is amending existing Flash Order pricing to provide all market participants that trade on ISE an opportunity to earn an additional credit in Non-Select Symbols when executing against Priority Customer Orders.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section

[14] Broker-Dealers pay registration and membership fees in self-regulatory organizations (''SRO'') and incur costs to comply and assure that their associated persons comply with the Act and SRO rules.

[15] *See* note 14 above.

[16] *See* note 14 above.

19(b)(3)(A)(ii) of the Act.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2018–81 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–ISE–2018–81. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–81 and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

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

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84340; File No. SR–BOX–2018–30]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 7600(a)(4) (Qualified Open Outcry Orders—Floor Crossing)

October 2, 2018.

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 September 20, 2018, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7600(a)(4) (Qualified Open Outcry Orders—Floor Crossing). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

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

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

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

1. Purpose

The Exchange proposes to amend Rule 7600(a)(4) to provide the ability for the Exchange to determine the applicable number of legs for a Complex Qualified Open Outcry Orders (''Complex QOO Order'').[3] Currently, Complex QOO Orders are limited to a maximum of four (4) legs on the BOX Trading Floor. The Exchange proposes to have the applicable number of legs now be determined by the Exchange.[4] The Exchange notes that only orders that meet the definition of a Complex Order[5] are allowed to trade on the BOX Trading Floor.[6] Any orders that are entered into the system as a Complex Order on the BOX Trading Floor that do not meet the definition of a Complex Order will be rejected.

The Exchange will inform Participants in advance of any change to the number of legs via Informational Circular. The Exchange notes that another exchange in the industry has similar rules in place which provide flexibility in determining the maximum number of legs for complex orders at their respective exchange.[7]

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

[2] 17 CFR 240.19b–4.

[3] A QOO Order is a two-sided order that is used by Floor Brokers to execute transactions from the Trading Floor. *See* Rule 7600.

[4] The Exchange notes that the number of legs determined by the Exchange will apply to all classes. The Exchange also notes that the proposal discussed herein is not making any changes to the priority rules for Complex Orders.

[5] The term ''Complex Order'' means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. *See* BOX Rule 7240(a)(7).

[6] On the Trading Floor, a Floor Broker or such Floor Broker's employee shall, contemporaneously upon receipt of an order, and prior to announcement of such an order in the trading crowd, record all options orders represented by such Floor Broker onto the Floor Broker's order entry mechanism. *See* Rule 7580(e)(1).

[7] *See* Cboe Exchange Inc. (''Cboe'') Rule 6.53.02. Cboe's rule states that ''[c]omplex orders of twelve (12) or less must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by

The Exchange also proposes to correct the location of a misplaced comma in Rule 7600(a)(4). Rule 7600(a)(4), as amended, will make clear that the cross reference to Rule 7240(a)(5) applies to Complex QOO Orders and not multi-leg orders. The Exchange believes that this correction will add clarity with regard to Complex QOO Orders traded on the BOX Trading Floor.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the Exchange believes the proposed rule change, which provides the Exchange with greater flexibility in determining the maximum number of legs for Complex QOO Orders, will benefit Floor Brokers and their customers by providing the potential for increased opportunities for executions on the BOX Trading Floor. Further, the Exchange believes that the proposed change will provide the potential for greater liquidity which should, in turn, benefit and protect investors and the public interest through the potential for greater volume of orders and executions on the BOX Trading Floor. As discussed above, the Exchange notes that another exchange has a similar rule which allows for the maximum number of legs for complex orders to be determined by the exchange.[10]

Lastly, the Exchange believes that the proposed change to correct the inadvertent error in Rule 7600(a)(4) is reasonable as it will provide clarity with respect to QOO Orders on the Exchange.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the proposed rule change is similar to the rules of another exchange.[11] The Exchange does not believe the proposal will impose any burden on intermarket competition, as the proposed rule will allow BOX to compete with other options exchanges in the industry. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. Lastly, the Exchange believes that the proposed change will not impose a burden on intramarket competition as the proposal will apply to all Participants that wish to submit Complex Orders on the BOX Trading Floor.

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 comments on the proposed rule change.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2018–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2018–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit

Regulatory Circular), complex orders of more than twelve (12) legs may be split across multiple order tickets . . .'' BOX believes that this is similar to the proposal discussed herein. BOX's reading of Cboe's rule suggests that Cboe may determine the applicable number of legs for complex orders on their respective trading floor. As such, the Exchange believes that the proposed change is similar to the Cboe rule cited above. BOX does note, however, that [sic] is not proposing a twelve leg maximum but rather that the Exchange be responsible for determining the applicable number of legs for Complex Orders on the BOX Trading Floor. Further, the Exchange will communicate to Participants in advance of any change to the applicable number of legs via Informational Circular. *See also* EDGX Exchange, Inc (''EDGX'') Rule 21.20(a)(5). The Exchange notes that EDGX is an electronic exchange and as such, its rules apply to electronic trading only.

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

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

[10] *See supra,* note 7.

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2018–30, and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21783 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934; Release No. 34–84337/October 2, 2018]

In the Matter of Chicago Stock Exchange, Inc., 440 South LaSalle Street, Suite 800, Chicago, IL 60605; File No. SR–CHX–2017–04; Order Setting Aside the Order by Delegated Authority Approving SR–CHX–2017–04

On February 10, 2017, the Chicago Stock Exchange, Inc. (''Exchange'' or ''CHX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt the CHX Liquidity Enhancing Access Delay on a pilot basis. The proposed rule change was published for comment in the **Federal Register** on February 21, 2017.[3] On April 3, 2017, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[4] On May 22, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act [5] to determine whether to approve or disapprove the proposed rule change.[6] On August 17, 2017, pursuant to Section 19(b)(2) of the Exchange Act,[7] the Commission designated a longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change.[8] On September 19, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[9] On October 18, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[10] On October 19, 2017, the Division of Trading and Markets, for the Commission pursuant to delegated authority,[11] approved the proposed rule change, as modified by Amendments No. 1 and No. 2.[12]

On October 24, 2017, the Secretary of the Commission notified the Exchange that pursuant to Rule 431 of the Commission's Rules of Practice,[13] the Commission would review the Delegated Order and that the Delegated Order was stayed until the Commission ordered otherwise.[14] On November 8, 2017, the Commission issued a scheduling order allowing the filing of additional statements.[15]

On July 25, 2018, CHX withdrew the proposed rule change (SR–CHX–2017–04).[16]

Under Commission Rule of Practice 431(a), the Commission may ''affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, any action made pursuant to'' delegated authority.[17] We find that, in light of the CHX's withdrawal of the proposed rule change, it is appropriate to set aside the Delegated Order.

Accordingly, *it is ordered* that the October 19, 2017 order approving by delegated authority CHX's proposed rule change number SR–CHX–2017–04, be, and it hereby is, set aside.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21761 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80041 (February 14, 2017), 82 FR 11252.

[4] *See* Securities Exchange Act Release No. 80364, 82 FR 17065 (April 7, 2017).

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

[6] *See* Securities Exchange Act Release No. 80740, 82 FR 24412 (May 26, 2017).

[7] 15 U.S.C. 78s(b)(2).

[8] *See* Securities Exchange Act Release No. 81415, 82 FR 40051 (August 23, 2017).

[9] The amendments to the proposed rule change are available at: *https://www.sec.gov/comments/sr-chx-2017-04/chx201704.htm.*

[10] *See supra* note 9.

[11] 17 CFR 200.30–3(a)(12).

[12] *See* Exchange Act Release No. 81913, 82 FR 49433 (October 25, 2017) (''Delegated Order'').

[13] 17 CFR 201.431.

[14] *See* Letter from Secretary of the Commission to Albert (A.J.) Kim, VP and Associate General Counsel, Chicago Stock Exchange, Inc., dated October 24, 2017, available at *https://www.sec.gov/rules/sro/chx/2017/34-81913-letter-from-secretary.pdf.*

[15] *See* Exchange Act Release No. 80234, 82 FR 52762 (November 14, 2017).

[16] *See* letter from Albert J. Kim, Vice President and Associate General Counsel, CHX, to Eduardo A. Aleman, Assistant Secretary, Commission, dated July 25, 2018.

[17] 17 CFR 201.431(a).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 10f–3; SEC File No. 270–237, OMB Control No. 3235–0226

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension and approval of the collections of information discussed below.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Act'') prohibits a registered investment company (''fund'') from purchasing any security during an underwriting or selling syndicate if the fund has certain relationships with a principal underwriter for the security. Congress enacted this provision in 1940 to protect funds and their shareholders by preventing underwriters from ''dumping'' unmarketable securities on affiliated funds.

Rule 10f–3 (17 CFR 270.10f–3) permits a fund to engage in a securities transaction that otherwise would violate section 10(f) if, among other things: (i) The fund's directors have approved procedures for purchases made in reliance on the rule, regularly review fund purchases to determine whether they comply with these procedures, and approve necessary changes to the procedures; and (ii) a written record of each transaction effected under the rule is maintained for six years, the first two of which in an easily accessible place. The written record must state: (i) From whom the securities were acquired; (ii) the identity of the underwriting syndicate's members; (iii) the terms of the transactions; and (iv) the information or materials on which the fund's board of directors has determined that the purchases were made in compliance with procedures established by the board.

The rule also conditionally allows managed portions of fund portfolios to purchase securities offered in otherwise off-limits primary offerings. To qualify for this exemption, rule 10f–3 requires that the subadviser that is advising the purchaser be contractually prohibited from providing investment advice to any other portion of the fund's portfolio

and consulting with any other of the fund's advisers that is a principal underwriter or affiliated person of a principal underwriter concerning the fund's securities transactions.

These requirements provide a mechanism for fund boards to oversee compliance with the rule. The required recordkeeping facilitates the Commission staff's review of rule 10f–3 transactions during routine fund inspections and, when necessary, in connection with enforcement actions.

The staff estimates that approximately 236 funds engage in a total of approximately 2,928 rule 10f–3 transactions each year.[1] Rule 10f–3 requires that the purchasing fund create a written record of each transaction that includes, among other things, from whom the securities were purchased and the terms of the transaction. The staff estimates [2] that it takes an average fund approximately 30 minutes per transaction and approximately 1,464 hours [3] in the aggregate to comply with this portion of the rule.

The funds also must maintain and preserve these transactional records in accordance with the rule's recordkeeping requirement, and the staff estimates that it takes a fund approximately 20 minutes per transaction and that annually, in the aggregate, funds spend approximately 976 hours [4] to comply with this portion of the rule.

In addition, fund boards must, no less than quarterly, examine each of these transactions to ensure that they comply with the fund's policies and procedures. The information or materials upon which the board relied to come to this determination also must be maintained and the staff estimates that it takes a fund 1 hour per quarter and, in the aggregate, approximately 944 hours [5] annually to comply with this rule requirement.

The staff estimates that reviewing and revising as needed written procedures for rule 10f–3 transactions takes, on average for each fund, two hours of a compliance attorney's time per year.[6] Thus, annually, in the aggregate, the staff estimates that funds spend a total of approximately 472 hours [7] on monitoring and revising rule 10f–3 procedures.

Based on an analysis of fund filings, the staff estimates that approximately 299 fund portfolios enter into subadvisory agreements each year.[8] Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 10f–3. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 12d3–1, 17a–10, and 17e–1, and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 10f–3 for this contract change would be 0.75 hours.[9] Assuming that all 299 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 224 burden hours annually.[10]

The staff estimates, therefore, that rule 10f–3 imposes an information collection burden of 4,080 hours.[11]

The collection of information required by rule 10f–3 is necessary to obtain the benefits of the rule. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 3, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21832 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

[1] These estimates are based on staff extrapolations from filings with the Commission.

[2] Unless stated otherwise, the information collection burden estimates are based on conversations between the staff and representatives of funds.

[3] This estimate is based on the following calculation: (0.5 hours × 2,928 = 1,464 hours).

[4] This estimate is based on the following calculations: (20 minutes × 2,928 transactions = 58,560 minutes; 58,560 minutes/60 = 976 hours).

[5] This estimate is based on the following calculation: (1 hour per quarter × 4 quarters × 236 funds = 944 hours).

[6] These averages take into account the fact that in most years, fund attorneys and boards spend little or no time modifying procedures and in other years, they spend significant time doing so.

[7] This estimate is based on the following calculation: (236 funds × 2 hours = 472 hours).

[8] Based on information in Commission filings, we estimate that 38 percent of funds are advised by subadvisers.

[9] This estimate is based on the following calculation (3 hours ÷ 4 rules = .75 hours).

[10] These estimates are based on the following calculations: (0.75 hours × 299 portfolios = 224 burden hours).

[11] This estimate is based on the following calculation: (1,464 hours + 976 hours + 944 hours + 472 + 244 hours = 4,080 total burden hours).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84344; File No. SR–CBOE–2018–056]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change To Adopt Rule 6.57, Risk-Weighted Asset ("RWA") Packages

October 2, 2018.

I. Introduction

On August 8, 2018, the Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to adopt Rule 6.57, Risk-Weighted Assets (''RWA'') Transactions. The proposed rule change was published for comment in the **Federal Register** on August 23, 2018.[3] The Commission did not receive any comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As described in more detail in the Notice,[4] the Exchange proposes to adopt Rule 6.57 to provide a mechanism for Cboe Options market makers to submit an on-floor risk-weighted asset package (''RWA Package'') [5] in the SPX trading crowd for the purpose of reducing risk-weighted asset (''RWA'') exposure in

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83870 (August 17, 2018), 83 FR 42725 (August 23, 2018) (''Notice'').

[4] *See id.*

[5] An RWA Package is a set of SPX options positions with at least: 50 options series; 10 contracts per options series; and 10,000 total contracts. *See id.* at 42726.

open SPX positions across numerous series. RWA Packages may be executed in the SPX crowd on the trading floor if they meet certain conditions specified in Rule 6.57, including that they be initiated for the account(s) of a Cboe Options market maker, result in a change in beneficial ownership, and include a certification concerning the attributable net reduction of RWA.[6]

Further, Rule 6.57(c) sets forth a trading procedure that requires the entering firm to submit a list of the individual SPX options series, their size, and any net debit or credit bid price received, as well as contact information for the order.[7] Cboe will thereafter post a list of the individual components of the RWA Package, the proposed net price for the RWA Package (if available), the contact information, and the time at which the two-hour request-for-quote period (''RFQ Period'') concludes.[8]

Rule 6.57(c) further specifies that the response that represents the best bid or offer on a net debit or credit basis for the RWA Package has priority.[9] In the event that equal bids or offers are received, the first RFQ response at the best bid or offer on a net debit or credit basis for the RWA Package has priority.[10] If executed, the representing party must report the details of the execution to the Exchange.[11]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act,[12] and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing a mechanism to facilitate the reduction of SPX options positions and concomitant RWA.[15] Specifically, the Exchange represented that such a mechanism would help market makers to continue to provide critical liquidity in the options market by reducing RWA to comply with ''bank capital regulations that . . . are negatively impacting the ability of [market makers] clearing through bank-affiliated clearing firms to provide liquidity.'' [16] In reducing RWA, bank-affiliated clearing firms will be able to clear more market maker activity during periods of increased volume and volatility.[17] In turn, market makers may be better able to continue quoting during those periods, lessening the risk of market dislocations or excess volatility that could occur if market makers needed to reduce their quoting activity during such periods to the detriment of investors.

Further, with respect to trading, the Exchange's rule is based on Rule 6.49A, which establishes a similar process for on-floor transfers, but improves upon that rule by adding certifications to assure compliance and increases transparency by electronically disseminating the list of series in a proposed RWA Package. All Cboe members will be given notice of and the ability to participate in the RWA Package trading process.

Finally, the Commission notes the narrow scope of proposed Rule 6.57. The proposed rule change would apply only to SPX options, which are particularly impacted by current bank-capital regulations, and any transaction must result in a net reduction of RWA. Furthermore, the proposed rule change is only effective for a limited term, ending two years from the approval date.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–CBOE–2018–056) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21784 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

[6] *See id.* at 42726–27.

[7] *See id.* at 42727.

[8] *See id.* The Exchange believed that this two-hour period was sufficient to allow members to review, price, and bid/offer for the RWA Package, because the RWA Package will be available in an electronic format and the Exchange believed that firms had access to electronic systems that will aid them in evaluating and pricing the SPX positions contained in an RWA Package. *See id.*

[9] *See id.*

[10] *See id.* at 42727.

[11] *See id.*

[12] 15 U.S.C. 78f.

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Notice, *supra* note 3, at 42726, 42730.

[16] *Id.* at 42726.

[17] *See id.*

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Electronic Data Collection System; SEC File No. 270–621, OMB Control No. 3235–0672

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit an extension for this current collection of information to the Office of Management and Budget for approval.

The Commission invites comment on updates to its Electronic Data Collection System database (the Database), which will support information provided by members of the public who would like to file an online tip, complaint or referral (TCR) to the Commission. The Database will be a web based e-filed dynamic report based on technology that pre-populates and establishes a series of questions based on the data that the individual enters. The individual will then complete specific information on the subject(s) and nature of the suspicious activity, using the data elements appropriate to the type of complaint or subject. The information collection is voluntary. The public interface to the Database will be available using the agency's website, *www.sec.gov.* The Commission estimates that it takes a complainant, on average, 30 minutes to submit a TCR through the Database. Based on the receipt of an average of approximately 16,000 annual TCRs for the past three fiscal years, the Commission estimates that the annual reporting burden is 8,000 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance

of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Background documentation for this information collection may be viewed at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F St. NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 3, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21831 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84354; File No. SR–BX–2018–042]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Align Existing Investigatory and Disciplinary Processes and Related Rules With the Investigatory and Disciplinary Processes and Related Rules of Nasdaq PHLX LLC

October 3, 2018.

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 September 21, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to a proposal [sic] to align its existing investigatory and disciplinary processes and related rules with the investigatory and disciplinary processes and related rules of Nasdaq PHLX LLC (''Phlx'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the 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

BX proposes to amend certain of its rules to align its existing investigatory and disciplinary processes and related rules with the investigatory and disciplinary processes and related rules of Phlx. BX notes that Phlx amended its rules recently to adopt an investigatory and disciplinary process identical in all material respects to the investigatory and disciplinary processes of Nasdaq, Inc. and BX.[3] The amendment also vested the Phlx Regulation Department with the same authority proposed herein. The Exchange therefore proposes the below changes to the 8000 and 9000 Series of the BX Rules in order to conform its rules to those of Phlx 8000 and 9000 Series rules in all respects.[4]

Definition of Exchange Regulation

The Exchange proposes to revise the definition of [sic] BX Current Rule 9120(w) (''Exchange's Regulation Department'') to expressly include the Exchange's Enforcement Department. The Exchange's Enforcement Department is specifically charged with pursuing disciplinary action against members, persons associated with a member, and persons subject to the Exchange's jurisdiction, in addition to FINRA's departments of Enforcement and Market Regulation.

Similarly, the Exchange proposes to add references to the ''Exchange's Regulation Department'' in BX Current Rule 9120(aa) (definition of the term ''Party''). The Exchange also proposes to add a definition for the term ''Party'' as used in the BX Rule 9400 series,[5] and to add references to ''FINRA'' in BX Current Rule 9120(aa)(4) to clarify that FINRA falls under the definition of ''Party'' as used in the BX Rule 9550 series. In addition, the Exchange is adding references to the Exchange's Regulation Department throughout the BX Rule 8000 and 9000 series.[6] These amendments will conform the text of BX 8000 and 9000 rules to those of Phlx.[7]

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82143 (November 22, 2017), 82 FR 56672 (November 29, 2017) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Investigatory and Disciplinary Processes Substantially Similar to Nasdaq BX, Inc. and The Nasdaq Stock Market LLC for Phlx, which, among other things, similarly enabled Phlx to retain discretion to perform these functions).

[4] The Exchange notes that the Financial Industry Regulatory Authority (''FINRA'') amended its rules recently to reflect an internal reorganization of FINRA's Enforcement Operations. *See* Securities Exchange Act Release No. 83781 (August 6, 2018), 83 FR 39802 (August 10, 2018). In July 2017, FINRA announced its plan to consolidate its existing enforcement functions into a unified Department of Enforcement. FINRA's recent rule change makes technical and other non-substantive changes to FINRA Rules 9000 Series Code of Procedure (the ''Code'') to reflect the single Department of Enforcement. The rule change removed references to the Market Regulation department, its head and employees from the Code where those references reflect the previously separate Market Regulation enforcement function. In light of FINRA's reorganization, the Exchange is likewise removing references to the Market Regulation department, its head and employees from the Code, and re-lettering the remainder of those sections where such re-lettering is necessary (*i.e.* Rule 9120). Phlx will also submit a similar rule filing to remove those references in due course.

[5] The Exchange notes that, like Phlx, it is likewise including the Department of Enforcement as a potential party to a matter under the Rule 9400 Series. The Exchange believes that including these departments in Rule 9400 Series is appropriate because they may be involved in the initiation of such a matter for BX currently. The Exchange is also adding FINRA to other parts of Rule 9400 where it is appropriate to show that FINRA may be the entity that initiated an action under the rule.

[6] *See* BX Current Rules 9120, 9212, 9213, 9215, 9216, 9251, 9253, 9264, 9269, 9270, 9311, 9400, 9810, 9820, 9830, and 9840.

[7] The Exchange is also amending Current BX Rule 9120(aa)(2), to align that rule text with FINRA's recent rule change. The term ''Party'' when used in the Rule 9520 Series, now means FINRA's

Continued

Role of FINRA

The Exchange proposes to add rule text to certain rules to clarify that FINRA may act on behalf of the Exchange. Today, FINRA is empowered to act on behalf of the Exchange.[8] The revisions to these rules will therefore clarify FINRA's authority as it currently exists today.[9]

Jurisdiction

The Exchange proposes to replace the current rule text related to jurisdiction of BX to initiate disciplinary actions with text substantially similar to the Phlx's jurisdiction rule text. Current BX Rules 1012(h)[10] and 1031(f)[11] permit a disciplinary action to be brought within two years after the effective date of resignation, cancellation, or revocation of a member or associated person. The current BX provisions are more limited than Phlx's jurisdictional language. Phlx Rule 9110(d) does not contain a time limit on when a matter may be brought against a member or associated person following its termination or deregistration, so long as the Exchange serves written notice within one year of receipt by the Exchange of notice of such termination or deregistration that the Exchange is making inquiry into a matter or matters which occurred prior to the termination of such person's status as a member or associated person.[12] The substantive amendment with respect to jurisdiction is with the timeframe for bringing a disciplinary action against a member or associated person. The proposed rule expands the timeframe.

The amendment to expand jurisdiction will not apply retroactively and any complaints not filed within the existing two year time-period will be time-barred. The new jurisdiction rule will only apply to the applicable members or associated persons who terminate with the Exchange on or after October 15, 2018.

The Exchange also proposes to eliminate the rule text contained within BX Current Rules 1012(h) and 1031(f) and reserve those sections.

Interested Staff Definition

The definition of Interested Staff is being conformed to Phlx's definition and includes references to Exchange and FINRA employees as those terms are proposed to be defined.[13] The proposed BX definition better defines who falls within the category of Interested Staff without substantively amending the definition. At this time, BX's proposal mirrors the Phlx definition, except insofar as BX's proposal omits references to FINRA's Department of Market Regulation for the reasons set forth in footnote 6 above.[14] The Exchange also notes that it is removing the words ''a district director or'' from BX Current Rules 9120(t)(1)(D), 9120(t)(2)(D), and 9120(t)(3)(D) because there is no such position at the Exchange. The use of those words in the current definition refers to the individual to whom a FINRA employee may report. Those words are therefore being preserved as they relate to FINRA in Proposed BX New Rules 9120(r)(1)(H), 9120(r)(2)(E), 9120(4)(3)(E), and 9120(4)(r)(F).

Other Non-Substantive and Technical Amendments

The Exchange proposes to add a sentence within Current BX Rule 9270(e)(2), similar to Phlx, to add more

Department of Enforcement, rather than Member Regulation. *See* Securities Exchange Act Release No. 83781 (August 6, 2018), 83 FR 39802 (August 10, 2018).

[8] *See* BX Current Rule 8001 (''The Exchange and FINRA are parties to the FINRA Regulatory Contract pursuant to which FINRA has agreed to perform certain functions described in these rules on behalf of the Exchange. Exchange rules that refer to the Exchange's Regulation Department, Exchange Regulation staff, Exchange staff, and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the FINRA Regulatory Contract.'').

[9] *See* BX Current Rules 9400, 9522, 9552, 9553, 9554, 9555, 9556, 9557, and 9558. The Exchange notes that FINRA currently performs the functions described in these rules. The proposed changes further clarify that in the rule text.

[10] A resigned Exchange member or an Exchange member that has had its membership canceled or revoked shall continue to be subject to the filing of a complaint under the Rules of the Exchange based upon conduct that commenced prior to the effective date of the Exchange member's resignation from the Exchange or the cancellation or revocation of its membership. Any such complaint, however, shall be filed within two years after the effective date of resignation, cancellation, or revocation.

[11] A person whose association with an Exchange member has been terminated and who is no longer associated with any member of the Exchange or a person whose registration has been revoked or canceled shall continue to be subject to the filing of a complaint under the Rules of the Exchange based upon conduct which commenced prior to the termination, revocation, or cancellation or upon such person's failure, while subject to the Exchange's jurisdiction as provided herein, to provide information requested by the Exchange pursuant to the Rules of the Exchange, but any such complaint shall be filed within: (A) Two years after the effective date of termination of registration pursuant to subsection (c); provided, however, that any amendment to a notice of termination filed pursuant to paragraph (c)(2) that is filed within two years of the original notice that discloses that such person may have engaged in conduct actionable under any applicable statute, rule, or regulation shall operate to recommence the running of the two-year period under this subsection; (B) two years after the effective date of revocation or cancellation of registration pursuant to the Rules of the Exchange; or (C) in the case of an unregistered person, within two years after the date upon which such person ceased to be associated with the Exchange member.

A person whose association with a member has been terminated and is no longer associated with any Exchange member shall continue to be subject to a proceeding to suspend, consistent with Section 12.2 of the Exchange By-Laws, his or her ability to associate with a member based on such person's failure to comply with an arbitration award or a written and executed settlement agreement obtained in connection with an arbitration or mediation submitted for disposition pursuant to the Rules of the Exchange, provided that such proceeding is instituted within two years after the date of entry of such award or settlement.

[12] Any member or any partner, officer, director or person employed by or associated with any member (the Respondent) who is alleged to have violated or aided and abetted a violation of the Securities Exchange Act of 1934 (Exchange Act), the rules and regulations thereunder, the By-Laws and Rules of the Exchange or any interpretation thereof, and the Rules, Regulations, resolutions and stated policies of the Board of Directors or any Committee of the Exchange, shall be subject to the disciplinary jurisdiction of the Exchange, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, fine, censure, limitation or termination as to activities, functions, operations, or association with a member organization, or any other fitting sanction in accordance with the provisions of these disciplinary Rules.

An individual member, or a partner, officer, director or person employed by or associated with a member may be charged with any violation within the disciplinary jurisdiction of the Exchange committed by employees under his supervision or by the member with which he is associated, as though such violations were his own. A member may be charged with any violation within the disciplinary jurisdiction of the Exchange committed by its officers, directors, or employees or by a member or other person who is associated with such member, as though such violation were its own.

Any member, or any partner, officer, director, or person employed by or associated with a member organization, and any member organization shall continue to be subject to the disciplinary jurisdiction of the Exchange following the termination of such person's permit or the termination of the employment by or the association with a member organization of such member or partner, officer, director or person, or following the deregistration of a member organization from the Exchange; provided, that the Exchange serves written notice to such former member, partner, officer, director, employee, associated person or member organization within one year of receipt by the Exchange of notice of such termination or deregistration that the Exchange is making inquiry into a matter or matters which occurred prior to the termination of such person's status as a member, or as a partner, officer, director or person employed by or associated with a member organization, or prior to the deregistration of such member organization.

[13] As noted in n.6 above, the Exchange is, however, omitting references to FINRA's Department of Market Regulation in light of FINRA's recent rule filing that similarly omitted references to its Department of Market Regulation.

[14] The Exchange notes that it is adopting a more comprehensive definition of ''Interested Staff'' under BX Current Rule 9120(t) to align it with the definition used by Phlx. Specifically, the Exchange is adopting new text that accounts for the role of the Exchange's Regulation Department, including the involvement of employees thereof. Thus, the proposed new definition will include all individuals that should be considered as ''Interested Staff'' for purposes of the BX Rule 9000 Series.

specificity to this rule and make clear that the Office of Disciplinary Affairs may accept an offer of settlement and order of acceptance or refer them to the Exchange Review Council. The Exchange notes that today the Office of Disciplinary Affairs may accept an offer of settlement and order of acceptance or refer them to the Exchange Review Council, so this language is intended to clarify the current practice under the rule.

The Exchange also proposes to make certain technical amendments throughout these rules to: (i) Amend ''NASD'' to the updated name ''FINRA'' [15]; (ii) replace ''Association'' with ''FINRA'' [16]; (iii) update certain incorrect cross-references to both FINRA and Nasdaq rule citations [17]; (iv) add rule text in certain rules to conform the rule text of BX to Phlx [18]; (v) include the phrase ''or person'' in various places throughout the rule to make it clear that inclusion of the person associated with a member is applicable [19]; and correct typographical errors.[20]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[21] in general, and furthers the objectives of Section 6(b)(5) of the Act,[22] 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 addition, the Exchange believes that the proposed rule changes [sic] further the objectives of Section 6(b)(7) of the Act,[23] in particular, in that these changes provide for fair procedures for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof.

In addition, the Exchange believes that the proposed rule changes are consistent with Section 6(b)(6) of the Act,[24] which requires the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder, or the rules of the Exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

The Exchange believes that the proposed changes are consistent with these requirements because the changes further harmonize BX's investigative and adjudicatory processes with similar processes used by Phlx. The new processes are well-established as fair and designed to protect investors and the public interest. Because the Exchange is conforming the BX rule text to the Phlx rule text to eliminate any differences (except for those noted herein), the Exchange believes that the proposed changes should facilitate prompt, appropriate, and effective discipline of members and their associated persons consistent with the Act. The Exchange believes that adding references to the Exchange's Regulation Department within the 8000 and 9000 BX Series rules as described in this proposal clarifies the involvement that the Exchange's Regulation Department plays in the investigation and enforcement of BX's disciplinary rules. In addition, the Exchange believes that adding references to FINRA within the 8000 and 9000 BX Series rules as described in this proposal brings greater transparency to its rules and clarifies the process as it exists today. Today, FINRA is empowered to act on behalf of the Exchange.[25]

The Exchange believes that harmonizing the rule text of the investigative and adjudicatory processes with those of Phlx will reduce the burden on members and their associated persons as they only will need to be familiar with a single rule set going forward. Because the substance of the rules would remain unchanged, the Exchange believes that the proposed change would continue to provide fair procedures for the suspending and disciplining of members and associated persons, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof.

The Exchange's proposal to replace the current rule text related to jurisdiction of BX to initiate disciplinary actions with text substantially similar to the Phlx's jurisdiction rule text will permit the Exchange to initiate a disciplinary action beyond two years after the effective date of the member's or associated person's termination with the Exchange. This provision would not apply retroactively, but would permit the Exchange to bring actions after the effective date of termination, so long as the Exchange serves written notice within one year of receipt by the Exchange of notice of such termination that the Exchange is making inquiry into a matter or matters which occurred prior to the termination of status as a member or associated person. The Exchange believes that this provision will provide the Exchange with the same latitude as Phlx to bring actions against its members and associated persons for violations of its rule. The Exchange believes that it is consistent with the Act to provide the Exchange with the ability to initiate violations for members and their associated persons for violations which took place while these members and associated persons were members of the Exchange. The rule change will better protect investors and the public interest by allowing actions to proceed that may otherwise have been time barred under the old rule.

The Exchange's proposal to amend the definition of Interested Staff will conform BX's definition to Phlx's definition, except insofar as BX's proposal omits references to FINRA's Department of Market Regulation for the reasons set forth in footnote 6 above. The Exchange believes that it is consistent with the Act because the definition better defines who falls within the category of Interested Staff without substantively amending the definition.

Finally, making technical amendments in BX Rules 8110, IM–8310–3, 9120, 9211, 9231, 9270, 9331, 9522, 9523, 9552, 9553, 9554, 9555, 9556, 9558, and 9610 removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having incorrect or incomplete material in the Exchange's rulebook.

The Exchange believes that its proposal furthers the objectives of Section 6(b)(7) of the Act,[26] in that it is designed to provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person

[15] *See* BX Current Rules 8110 and 9120(f).

[16] *See* BX Current Rules 9558(a), 9558(a)(2), and 9610(a).

[17] *See* BX Current Rules 9231(c) and 9331(a)(2).

[18] *See* BX Current Rules IM–8310–3, 9211(a)(1)–(2), and 9270(e)(2).

[19] *See* BX Current Rules 9552(b), 9553(b), 9554(b), 9555(b), and 9556(e).

[20] *See* BX Current Rules 9215(f), 9523(a)(4) and 9554(a).

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

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78f(b)(7).

[24] 15 U.S.C. 78f(b)(6).

[25] *See* BX Current Rule 8001.

[26] 15 U.S.C. 78f(b)(7).

seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof. Specifically, the Exchange believes that the proposed investigatory and disciplinary process is consistent with Section 6(b)(7) of the Act [27] because it is based on the existing processes used by Phlx.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended to more clearly align the text of Phlx's and the Exchange's rules. Specifically and as described in detail above, the Exchange believes that this change will bring efficiency and consistency to the investigative and adjudicatory processes, thereby reducing the burden on members and their associated persons who are also members of Phlx.

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

No written comments were either solicited or received.

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

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

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the Exchange may immediately amend its disciplinary rules to conform to Phlx's disciplinary process. The Exchange states that the proposed amendment to expand its current jurisdiction will not apply retroactively and any complaints not filed within the existing two-year time period will be time-barred. The Exchange further states that its new jurisdiction rule will only apply to applicable members or associated persons who terminate their membership or association on October 15, 2018 or thereafter. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow BX to conform its disciplinary rules to those of Phlx. In addition, the proposal does not present any novel issues. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[32]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2018–042 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–BX–2018–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–042 and should be submitted on or before October 30, 2018.

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

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[27] *Id.*

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

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

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] For purposes only of waving the 30-day operative delay, the Commission has considered the purposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84336; File No. SR–NYSE–2018–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Amendments To Rules Regarding Qualification, Registration and Continuing Education Applicable to Members and Member Organizations

October 2, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 27, 2018, New York Stock Exchange LLC (''NYSE'' 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 amendments to the Exchange's rules regarding qualification, registration and continuing education requirements applicable to members or member organizations. To the extent the Exchange's rule proposal is intended to harmonize with Financial Regulatory Authority, Inc. (''FINRA'') rules and thus promote consistency within the securities industry, the Exchange is only adopting rules that are relevant to the Exchange's members or member organizations. The Exchange is not adopting registration categories that are not applicable to members or member organizations because members or member organizations do not engage in the type of business that would require such registration. As such, the Exchange is amending current Rule 345A regarding continuing education requirements to reflect the FINRA rule; adopting Commentary .60 to current Rule 345A regarding fingerprint information; adopting new Rule 1210 regarding registration requirements and related Commentary to new Rule 1210; adopting new Rule 1220 regarding registration categories [4] and related Commentary to new Rule 1220; and adopting new Rule 1230 regarding associated persons exempt from registration and related Commentary to new Rule 1230. Each of these rule changes, which are [sic] described in more detail below, would become operative on October 1, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend its qualification, registration, and continuing education requirements applicable to members or member organizations. The proposed amendments are intended to: (i) Provide transparency and clarity with respect to the Exchange's registration, qualification and examination requirements; (ii) amend its rules relating to categories of registration and respective qualification examinations required for ETP Holders that engage in trading activities on the Exchange; (iii) harmonize the Exchange's qualification, registration and examination rules with those of FINRA [5] so as to promote uniform standards across the securities industry; and (iv) add new definitions of terms and make other conforming changes to enhance the comprehensiveness and clarity of the Exchange's rules.[6] The proposed changes are discussed below.

A. Amendment to Rule 345, Commentary .10

Rule 345, Commentary .10, provides the definition of a Securities Trader as any person engaged in the purchase or sale of securities or other similar instruments for the account of a member organization with which such person is associated, as an employee or otherwise, and who does not transact any business with the public. With this proposed rule change, the Exchange proposes to adopt FINRA's definition of Securities Trader (as described below) and therefore, proposes to add a reference in Rule 345, Commentary .10 to Rule 2.1220(b)(3) [sic] as the appropriate rule in the Exchange's Rulebook where the definition of Securities Trader can be found.

Further, Rule 345, Commentary .10, states that a Securities Trader must be registered as such on Web CRD and pass the Series 57 examination. Given the formulation of the Securities Industry Essentials (''SIE'') examination (discussed below) which all potential representative-level registrants would be required to pass, the Exchange proposes to amend the current rule to require that a Securities Trader must register as such on Web CRD and must pass both the SIE examination and the Series 57 examination.

B. Amendments to Rule 345A—Continuing Education Requirements

Rule 345A provides the continuing education requirements of registered persons [7] subsequent to their initial qualification and registration with the Exchange, and includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards.

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

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

[3] 17 CFR 240.19b–4.

[4] The relevant principal registration categories the Exchange proposes to adopt are (1) Principal; (2) General Securities Principal; (3) Compliance Officer; (4) Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal; (5) Securities Trader Principal; and (6) General Securities Sales Supervisor. The relevant representative registration categories the Exchange proposes to adopt are (1) Representative; (2) General Securities Representative; and (3) Securities Trader.

[5] *See* Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (SR–FINRA–2017–007) (Approval Order) (the ''FINRA Filing''). The Exchange notes that in order to maintain consistency with the FINRA Filing, the Exchange proposes to incorporate certain terms from the relevant FINRA rule into the Exchange's rule that may not be applicable to all member organizations. For example, while member organizations may not be engaged in ''investment banking'' activity, the Exchange proposes to adopt that term within these registration rules to conform them to the FINRA rules.

[6] The conforming changes the Exchange proposes would substitute the term ''member or member organization'' for ''member'' and the term ''Exchange'' for ''FINRA.''

[7] For purposes of Rule 345A, the term ''registered person'' means any member, principal executive, registered representative, or other person registered or required to be registered under Exchange rules, but does not include any such person whose activities are limited solely to the transaction of business on the Floor with member or registered broker-dealers. *See* Rule 345A, Commentary .10.

The Firm Element consists of at least an annual, member-developed and administered training programs [sic] designed to keep registered persons current regarding securities products, services and strategies offered by the member or member organization.

1. Regulatory Element

The Exchange proposes to amend Rule 345A(a) to provide, consistent with proposed Rule 2.1210 [sic], Commentary .08, that a waiver-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and that the content of the Regulatory Element would be based on the same cycle had the individual remain [sic] registered.[8] The proposed amendment to Rule 345A(a) also provides that if a waiver-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose waiver eligibility.[9]

Further, the Exchange proposes to amend Rule 345A(a) to provide that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. The proposed amendment provides, however, that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member or member organization with which the person is associated has a policy prohibiting such trail or residual commissions.[10]

Additionally, under Rule 345A(a), a registered person is required to retake the Regulatory Element in the event that such person (i) is subject to any statutory disqualification as defined in Section 3(a)(39) of the Exchange Act; (ii) is subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or (iii) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any securities governmental agency or self-regulatory organization. The Exchange proposes to amend Rule 345A(a) to provide an exception to a waiver-eligible person from retaking the Regulatory Element and satisfy [sic] all of its requirements.[11]

2. Firm Element

Current Rule 345A(b) provides that programs used to implement a member's or member organization's training program must be appropriate for the business of the member or member organization and, at a minimum must cover specific matters concerning securities products, services, and strategies offered by the member or member organization. The Exchange proposes to amend the current rule to expand the minimum standard for such training programs by requiring that, at a minimum, a firm's training program must also cover training in ethics and professional responsibility.[12]

C. Proposed New Rule 345A—Commentary .60—Fingerprint Information [13]

The Exchange proposes to adopt new Rule 345A, Commentary .60, regarding the submission of fingerprint information by member organizations. As proposed, upon filing an electronic Form U4 on behalf of a person applying for registration, a member organization would be required to promptly submit fingerprint information for that person. If the member organization fails to submit the fingerprint information within 30 days after the Exchange receives the electronic Form U4, the person's registration shall be deemed inactive and the person would be required to immediately cease all activities requiring registration and would be prohibited from performing any duties and functioning in any capacity requiring registration. The proposed rule further provides allows [sic] the Exchange to administratively terminate a registration that is inactive for a period of two years. However, a person whose registration is administratively terminated may seek to reactivate his or her registration by reapplying for registration and meeting the qualification requirements under Exchange rules.

D. Proposed New Rules 1210 Through 1230

As a general matter, FINRA administers qualification examinations that are designed to establish that persons associated with member organizations have attained specified levels of competence and knowledge. Over time, the examination program has increased in complexity to address the introduction of new products and functions, and related regulatory concerns and requirements. As a result, today, there are a large number of examinations, considerable content overlap across the representative-level examinations and requirements for individuals in various segments of the industry to pass multiple examinations. To address these issues, FINRA has formulated a general knowledge examination called the Securities Industry Essentials examination that all potential representative-level registrants would take.[14] Rule changes related to the adoption of the SIE and other proposed new rules are discussed below.

1. Proposed Rule 1210—Registration Requirements [15]

Proposed Rule 1210 provides that each person engaged in the investment banking or securities business of a member organization must register with the Exchange as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed Rule 1220, unless exempt from registration pursuant to proposed Rule 1230. Proposed Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules.

2. Proposed Rule 1210, Commentary .01—Permissive Registrations [16]

The Exchange currently does not have a specific rule that provides for permissive registrations. With this proposed rule change, and to conform its rules to the FINRA rules, the Exchange proposes to adopt a specific rule regarding permissive registrations.

[8] The proposed change is substantially similar to that contained in FINRA Rule 1240(a)(1).

[9] The proposed change is substantially similar to that contained in FINRA Rule 1240(a)(2).

[10] The proposed change is substantially similar to that contained in FINRA Rule 1240(a)(2).

[11] The proposed change is substantially similar to that contained in FINRA Rule 1240(a)(3).

[12] The proposed change is substantially similar to that contained in FINRA Rule 1240(b)(2).

[13] The proposed rule is substantially similar to FINRA Rule 1010(d).

[14] The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. In particular, the SIE will cover four major areas. The first, ''Knowledge of Capital Markets,'' focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, ''Understanding Products and Their Risks,'' covers securities products at a high level as well as associated investment risks. The third, ''Understanding Trading, Customer Accounts and Prohibited Activities,'' focuses on accounts, orders, settlement and prohibited activities. The final area, ''Overview of the Regulatory Framework,'' encompasses topics such as SROs, registration requirements and specified conduct rules.

[15] The proposed rule is substantially similar to FINRA Rule 1210.

[16] The proposed rule is substantially similar to FINRA Rule 1210.02.

Proposed Rule 1210, Commentary .01, allows any associated person to obtain and maintain any registration permitted by a member organization. For instance, an associated person of a member organization working solely in a clerical or ministerial capacity would be able to obtain and maintain a General Securities Representative registration with the member organization. As another example, an associated person of a member organization who is registered, [sic] and functioning solely as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member organization. Further, proposed Rule 1210, Commentary .01, allows an individual engaged in the securities business of a foreign securities affiliate or subsidiary of a member organization to obtain and maintain any registration permitted by the member organization.

The Exchange is proposing to permit the registration of such individuals for several reasons. First, a member organization may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed rule change would allow member organizations to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Finally, allowing registration in additional categories encourages greater regulatory understanding.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all Exchange rules, to the extent relevant to their activities. Additionally, consistent with the requirements of the Exchange's supervision rules, member organizations would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. With respect to an individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a non-registered person. However, for purposes of compliance with the Exchange's supervision rules, a member organization would be required to assign a registered supervisor who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.[17]

3. Proposed Rule 1210, Commentary .02—Qualification Examinations and Waivers of Examinations [18]

Proposed Rule 1210, Commentary .02, provides that before the registration of a person as a representative can become effective under proposed Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed Rule 1220.[19] Proposed Rule 1210, Commentary .02, also provides that before the registration of a person as a principal can become effective under proposed Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed Rule 1220.

Further, proposed Rule 1210, Commentary .02, provides that if a registered person's job functions change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.

Moreover, proposed Rule 1210, Commentary .02, provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed Rule 1210, Commentary .02, also provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. The Exchange believes that expanding the pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to the proposed rule, passing the SIE alone would not qualify them for registration with the Exchange. Rather, to be eligible for registration with the Exchange, an individual must pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

Proposed Rule 1210, Commentary .02, also provides that the Exchange may, in exceptional cases and where good cause is shown, pursuant to the Rule 9600 Series, waive the applicable qualification examination(s) and accept other standards as evidence of an applicant's qualifications for registration. The proposed rule further provides that the Exchange will only consider examination waiver requests submitted by a member organization for individuals associated with the member organization who are seeking registration in a representative- or principal-level registration category. Moreover, the proposed rule states that the Exchange will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals. The Exchange would not consider a waiver of the SIE for non-associated persons or for associated persons who are not registering as representatives or principals.

4. Proposed Rule 1210, Commentary .03—Requirements for Registered Persons Functioning as Principals for a Limited Period [20]

Proposed Rule 1210, Commentary .03, provides that a member organization may designate any person currently registered, or who becomes registered, with the member organization as a representative to function as a principal for a limited period, provided that such person has at least 18 months of experience functioning as a registered representative with [sic] the five-year period immediately preceding the designation. The proposed rule is intended to ensure that representatives designated to function as principals for the limited period under the proposal have an appropriate level of registered representative experience. The proposed rule clarifies that the requirements of the rule apply to designations to any principal category, including those categories that are not subject to a

[17] In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual.

[18] The proposed rule is substantially similar to FINRA Rule 1210.03.

[19] Proposed Rule 1220 sets forth each registration category and applicable qualification examination for member organizations.

[20] The proposed rule is substantially similar to FINRA Rule 1210.04.

prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.[21]

The proposed rule also clarifies that the individual must fulfill all applicable prerequisite registration, fee and examination requirements before his or her designation as a principal. Further, the proposed rule provides that in no event may such person function as a principal beyond the initial 120 calendar days without having successfully passed an appropriate principal qualification examination. The proposed rule also provides an exception to the experience requirement for principals who are designated by a member organization to function in other principal categories for a limited period. Specifically, the proposed rule states that a member organization may designate any person currently registered, or who becomes registered, with the member organization as a principal to function in another principal category for 120 calendar days before passing any applicable examinations.

5. Proposed Rule 1210, Commentary .04—Rules of Conduct for Taking Examinations and Confidentiality of Examinations [22]

Proposed Rule 1210, Commentary .04 states that associated persons taking the SIE would be subject to the SIE Rules of Conduct, and associated persons taking a representative or principal examination would be subject to the Rules of Conduct for representative and principal examinations. Pursuant to proposed Rule 1210, Commentary .04, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of Rule 2010. Moreover, if an associated person is deemed to have violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by the Exchange.

Further, the proposed rule states that individuals taking the SIE who are not associated persons must agree to be subject to the SIE Rules of Conduct. Among other things, the SIE Rules of Conduct would require individuals to attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and would prohibit individuals from cheating on the examination or misrepresenting their qualifications to the public subsequent to passing the SIE. Moreover, non-associated persons may forfeit their SIE results and may be prohibited from retaking the SIE if the Exchange determines that they cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE.

The proposed rule further notes that the Exchange considers all qualification examinations [sic] content to be highly confidential and that the removal of examination content from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such qualification examination or any other use that would compromise the effectiveness of the examinations and the use in any manner and at any time of the questions or answers to the examinations is prohibited and would be deemed a violation of Rule 2010.

6. Proposed Rule 1210, Commentary .05—Waiting Periods for Retaking a Failed Examination [23]

Proposed Rule 1210, Commentary .05 provides that any person who fails a qualification examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination. The proposed rule further provides that if a person fails an examination three or more times in succession within a two-year period, he or she would be prohibited from retaking the examination either until a period of 180 calendar days from the date of the person's last attempt to pass it [sic]. These waiting periods would apply to the SIE and the representative- and principal-level examinations. Moreover, the proposed rule provides that non-associated persons taking the SIE must agree to be subject to the same waiting periods for retaking the SIE.

7. Proposed Rule 1210, Commentary .06—All Registered Persons Must Satisfy the Regulatory Element of Continuing Education [24]

Pursuant to Rule 345A, the CE requirements applicable to registered persons consist of a Regulatory Element [25] and a Firm Element.[26] The Regulatory Element applies to registered persons and must be completed within prescribed time frames.[27] For purposes of the Regulatory Element, a registered person is any member, principal executive, registered representative, or other person registered or required to be registered under Exchange rules, but does not include any such person whose activities are limited solely to the transaction of business on the Floor with member [sic] or registered broker-dealers. The Firm Element consists of annual, member organization-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member organization. For purposes of the Firm Element, the term covered registered persons means any person registered with a member organization who has direct contact with customers in the conduct of the member organization's securities sales, trading and investment banking activities and to the immediate supervisors of such persons.

The Exchange believes that all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, the Exchange proposes to adopt Rule 1210, Commentary .06, to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in Rule 345A(a). The Exchange is making corresponding changes to Rule 345A(a) [sic]. The Exchange is not proposing any changes to the Firm Element requirement at this time. Individuals

[21] The Exchange notes that qualifying as a registered representative is a prerequisite to qualifying as a principal except with respect to the following principal-level registrations: (1) Compliance Official; (2) Financial and Operations Principal; and (3) Introducing Broker-Dealer Financial and Operations Principal.

[22] The proposed rule is substantially similar to FINRA Rule 1210.05.

[23] The proposed rule is substantially similar to FINRA Rule 1210.06.

[24] The proposed rule is substantially similar to FINRA Rule 1210.07.

[25] *See* Rule 345A(a).

[26] *See* Rule 345A(b).

[27] Pursuant to Rule 345A(a), each specified registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. A registered person who has not completed the Regulatory Element program within the prescribed time frames will have his or her registrations deemed inactive and designated as ''CE inactive'' on the CRD system until such time as the requirements of the program have been satisfied. A CE inactive person is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. Moreover, if a registered person is CE inactive for a two-year period, the Exchange will administratively terminate the person's registration status. The two-year period would be calculated from the date the person becomes CE inactive. In either case, such person must requalify (or obtain a waiver of the applicable qualification examination(s)) to be re-eligible for registration.

who have passed the SIE but not a representative- or principal-level examination and do not hold a registered position would not be subject to any CE requirements.

Proposed Rule 1210, Commentary .06, also provides that a registered person of a member organization who becomes CE inactive would not be permitted to be registered in another registration category with the member organization or be registered in any registration category with another member organization, until the person has satisfied the Regulatory Element.

8. Proposed Rule 1210, Commentary .07—Lapse of Registration and Expiration of the SIE [28]

Proposed Rule 1210, Commentary .07, provides that any person who was last registered as a representative two or more years immediately preceding the date of receipt by the Exchange of a new application for registration as a representative is required to pass a qualification examination for representatives appropriate to the category of registration as specified in proposed Rule 1220(b). Proposed Rule 1210, Commentary .07, also sets forth that a passing result on the SIE would be valid for up to four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a member organization at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that member organization, or a subsequent member organization, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes the SIE to become an associated person of a member organization and pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the effective date of this proposed rule change would have up to four years to re-associate with a member organization and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two-year expiration period as is the case today.

Finally, proposed Rule 1210, Commentary .07, clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by the Exchange if that application does not result in a registration.

9. Proposed Rule 1210, Commentary .08—Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member Organization [29]

Proposed Rule 1210, Commentary .08, provides the process for individuals working for a financial services industry affiliate of a member organization [30] to terminate their registrations with the member organization and be granted a waiver of their requalification requirements upon re-registering with a member organization, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate (''FSA'') waiver.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the FSA criteria, the member organization with which the individual is registered would notify the Exchange of the FSA designation. The member organization would concurrently file a full Form U5 terminating the individual's registration with the firm, which would also terminate the individual's other SRO and state registrations. To be eligible for initial designation as an FSA-eligible person by a member organization, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member organization. An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA designation(s). Thereafter, the individual would be eligible for a waiver for up to seven years from the date of initial designation,[31] provided that the other conditions of the waiver, as described below, have been satisfied. Consequently, a member organization other than the member organization that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member organization may request a waiver for the individual during the seven-year period.[32]

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member organization. The individual would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (*i.e.,* the individual would have the standard two-year period after termination to re-register without having to retake an examination). The Exchange is making corresponding changes to Rule 345A.

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also submit an examination waiver request

[28] The proposed rule is substantially similar to FINRA Rule 1210.08.

[29] The proposed rule is substantially similar to FINRA Rule 1210.09.

[30] Proposed Rule 1210, Commentary .07 [sic], defines a ''financial services industry affiliate of a member organization'' as a legal entity that controls, is controlled by or is under common control with a member organization and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

[31] Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

[32] The following examples illustrate this point:

Example 1. Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A's financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A's financial services affiliate for three years, the individual directly joins Firm B's financial services affiliate for three years. Firm B then submits a waiver request to register the individual.

Example 2. Same as Example 1, but the individual directly joins Firm B after working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

Example 3. Firm A designates an individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual joins Firm A's financial services affiliate for three years. Firm A then submits a waiver request to re-register the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by notifying the Exchange and files a Form U5. The individual rejoins Firm A's financial services affiliate for two years, after which the individual directly joins Firm B's financial services affiliate for one year. Firm B then submits a waiver request to register the individual.

Example 4. Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

to the Exchange,[33] similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. The Exchange would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. The Exchange would summarily grant the request if the following conditions are met:

(1) Prior to the individual's initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member organization that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual's initial designation as an FSA-eligible person by a member organization;

(3) The initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5;

(4) The individual continuously worked for the financial services affiliate(s) of a member organization since the last Form U5 filing;

(5) The individual has complied with the Regulatory Element of CE; and

(6) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member organization.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member organization so long as the individual is continuously working for an affiliate. Further, a member organization could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.[34] An individual who has been designated as an FSA-eligible person by a member organization would not be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member organization.

10. Proposed Rule 1210, Commentary .09—Status of Persons Serving in the Armed Forces of the United States [35]

Proposed Rule 1210, Commentary .09, provides specific relief to registered persons serving in the Armed Forces of the United States. Among other things, the proposed rule permits a registered person of a member organization who volunteers for or is called into active duty in the Armed Forces of the United States to be registered in an inactive status and remain eligible to receive ongoing transaction-related compensation. The proposed rule also includes specific provisions regarding the deferment of the lapse of registration requirements for formerly registered persons serving in the Armed Forces of the United States. The proposed rule further requires that the member organization with which such person is registered promptly notify the Exchange of such person's return to employment with the member organization. The proposed rule would require a member organization that is a sole proprietor to also similarly notify the Exchange of his or her return to participation in the investment banking or securities business. The proposed rule also provides that the Exchange would defer the lapse of the SIE for formerly registered persons serving in the Armed Forces of the United States.

E. Proposed New Rule 1220—Registration Categories [36]

1. Proposed Rule 1220(a)(1)—Principal

As set forth in proposed Rule 1220(a)(1), for purposes of these registration rules, the term ''Principal'' [sic] to mean any Person Associated with a member organization actively engaged in the management of the member organization's securities business, including supervision, solicitation, conduct of the member organization's business, or the training of Authorized Traders and Persons Associated with a member organization for any of these functions. Such Persons include Sole Proprietors, Officers, Partners, and Directors of Corporations.

For purposes of proposed Rule 1220(a)(1), the phrase ''actively engaged in the management of the member organization's securities business'' includes the management of, and the implementation of corporate policies related to, such business. The term also includes managerial decision-making authority with respect to the member organization's securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member organization's executive, management or operations committee.

2. Proposed Rule 1220(a)(2)—General Securities Principal [37]

Proposed Rule 1220(a)(2)(A) states that each principal as defined in proposed Rule 1220(a)(1) is required to register with the Exchange as a General Securities Principal, subject to the following exceptions. The proposed rule provides that if a principal's activities include the functions of a Compliance Officer, a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer, a Principal Operations Officer, or a Securities Trader Principal, then the principal must appropriately register in one or more of these categories.

Proposed Rule 1220(a)(2)(A) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal.

Proposed Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination. Proposed Rule 1220(a)(2)(B) also clarifies that an individual may register as a General Securities Sales Supervisor and pass the

[33] The Exchange would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

[34] For example, if a member organization submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member organization for three years and re-registers the individual, the member organization could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member organization for another three years, the member organization could submit a second waiver request and re-register the individual upon returning to the member organization.

[35] The proposed rule is substantially similar to FINRA Rule 1210.10.

[36] The Exchange is not adopting the following categories from the FINRA Filing because member organizations do not engage in the type of business that would require registration with the Exchange: Investment Banking Principal, Research Principal, Registered Options Principal, Government Securities Principal, Investment Company and Variable Contracts Products Principal, Direct Participation Programs Principal, Private Securities Offerings Principal, Supervisory Analyst, Operations Professional, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative, and Private Securities Offering Representative. The Exchange is also not adopting the following categories because the FINRA Filing eliminated them: Order Processing Assistant Representative, United Kingdom Securities Representative, Canadian Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative.

[37] The proposed rule is substantially similar to FINRA Rule 1220(a)(2).

General Securities Sales Supervisor qualification examination in lieu of passing the General Securities Principal examination.

As a general matter, the Exchange currently recognizes the Corporate Securities Representative but would no longer recognize this registration category given its elimination by FINRA. Proposed Rule 1220(a)(2)(B), however, provides that, subject to the lapse of registration provisions in proposed Rule 1210, Commentary .07, each person registered with the Exchange as a Corporate Securities Representative and a General Securities Principal on October 1, 2018 and each person who was registered with the Exchange as a Corporate Securities Representative and a General Securities Principal within two years prior to October 1, 2018 would be qualified to register as a General Securities Principal without having to take any additional qualification examinations, provided that such person's supervisory responsibilities in the investment banking and securities business of a member organization are limited to corporate securities activities of the member organization. The proposed rule further provides that all other individuals registering as General Securities Principals after October 1, 2018 shall, prior to or concurrent with such registration, become registered as a General Securities Representative and either (1) pass the General Securities Principal qualification examination; or (2) register as a General Securities Sales Supervisor and pass the General Securities Sales Supervisor qualification examination.

3. Proposed Rule 1220(a)(3)—Compliance Officer [38]

Proposed Rule 1220(a)(3) establishes a Compliance Officer registration category and requires all persons designated as CCOs on Schedule A of Form BD to register as Compliance Officers, subject to an exception for member organizations engaged in limited investment banking or securities business. The proposed rule only addresses the registration requirements for CCOs. However, consistent with proposed Rule 1210, Commentary .01 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

In addition, the Exchange is proposing to provide CCOs of firms that engage in limited investment banking or securities business with greater flexibility to satisfy the qualification requirements for CCOs. Specifically, proposed Rule 1220(a)(3) set forth the following qualification requirements for Compliance Officer registration:

- Subject to the lapse of registration provisions in proposed Rule 1210, Commentary .07, each person registered with the Exchange as a General Securities Representative and a General Securities Principal on October 1, 2018 and each person who was registered with the Exchange as a General Securities Representative and a General Securities Principal within two years prior to October 1, 2018 would be qualified to register as Compliance Officers without having to take any additional examinations. In addition, subject to the lapse of registration provisions in proposed Rule 1210, Commentary .07, individuals registered as Compliance Officials in the CRD system on October 1, 2018 and individuals who were registered as such within two years prior to October 1, 2018 would also be qualified to register as Compliance Officers without having to take any additional examinations; [sic]
- All other individuals registering as Compliance Officers after October 1, 2018 would have to: (1) Satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination; or (2) pass the Compliance Official qualification examination.
- An individual designated as a CCO on Schedule A of Form BD of an ETP Holder [sic] that is engaged in limited investment banking or securities business may be registered in a principal category under proposed Rule 1220(a) that corresponds to the limited scope of the member organization's business.

4. Proposed Rule 1220(a)(4)—Financial and Operation Principal and Introducing Broker-Dealer Financial and Operations Principal [39]

Proposed Rule 1220(a)(4) provides that each principal who is responsible for the financial and operational management of a member organization that has a minimum net capital requirement of $250,000 under SEA Rules 15c3–1(a)(1)(ii) and 15c3–1(a)(2)(i), or a member organization that has a minimum net capital requirement of $150,000 under SEA Rule 15c3–1(a)(8) must be designated as a Financial and Operations Principal. In addition, proposed Rule 1220(a)(4) provides that a principal who is responsible for the financial and operational management of a member organization that is subject to the net capital requirements of SEA Rule 15c3–1, other than a member organization that is subject to the net capital requirements of SEA Rules 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8), must be designated and registered as either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Financial and Operations Principals and Introducing Broker-Dealer Financial and Operation Principals are not subject to a prerequisite representative registration, but they must pass the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal examination, as applicable.

Additionally, proposed Rule 1220(a)(4)(B) requires a member organization to designate a Principal Financial Officer with primary responsibility for the day-to-day operations of the business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and firm assets, calculation and collection of margin from customers and processing dividend receivable and payables and reorganization redemptions and those books and records related to such activities. Further, the proposed rule requires that a firm's Principal Financial Officer and Principal Operations Officer qualify and register as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, as applicable.

Because the financial and operational activities of member organizations that neither self-clear nor provide clearing services are more limited, such member organizations may designate the same person as the Principal Financial Officer, Principal Operations Officer and Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal (that is, such member organizations are not required to designate different persons to function in these capacities).

Given the level of financial and operational responsibility at clearing and self-clearing members, the Exchange believes that it is necessary for such member organizations to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal, such as supervision of individuals engaged in financial and operational activities. In addition, the proposed rule provides that a clearing or self-clearing member organization that is limited in size and

[38] The proposed rule is substantially similar to FINRA Rule 1220(a)(3).

[39] The proposed rule is substantially similar to FINRA Rule 1220(a)(4).

resources may request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

5. Proposed Rule 1220(a)(5)—Securities Trader Principal [40]

Proposed Rule 1220(a)(5) requires that a principal responsible for supervising the securities trading activities specified in proposed Rule 1220(b)(3) register as a Securities Trader Principal. The proposed rule requires that individuals registering as Securities Trader Principals must be registered as Securities Traders and pass the General Securities Principal qualification examination.

6. Proposed Rule 1220(a)(6)—General Securities Sales Supervisor [41]

Proposed Rule 1220(a)(6) provides that a principal may register with the Exchange as a General Securities Sales Supervisor if his or her supervisory responsibilities in the investment banking or securities business of a member organization are limited to the securities sales activities of the member organization, including the approval or customer accounts, training of sales and sales supervisory personnel and the maintenance of records of original entry or ledger accounts of the member organization required to be maintained in branch offices by Exchange Act record-keeping rules.

A person registering as a General Securities Sales Supervisor must satisfy the General Securities Representative prerequisite registration and pass the General Securities Sales Supervisor examinations.[42] Moreover, a General Securities Sales Supervisor is precluded from performing any of the following activities: (1) Supervision of the origination and structuring of underwritings; (2) supervision of market-making commitments; (3) supervision of the custody of firm or customer funds or securities for purposes of SEA Rule 15c3–3; or (4) supervision of overall compliance with financial responsibility rules.

7. Proposed Rule 1220(b)(1)—Representative [43]

Proposed Rule 1220(b)(1) defines a representative as any person associated with a member organization, including assistant officers other than principals, who is engaged in the member organization's investment banking or securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member organizations for any of these functions.

8. Proposed Rule 1220(b)(2)—General Securities Representative [44]

Proposed Rule 1220(b)(2)(A) states that each representative as defined in proposed Rule 1220(b)(1) is required to register with the Exchange as a General Securities Representative, subject to the following exceptions. The proposed rule provides that if a representative's activities include the function of a Securities Trader, then the representative must appropriately register in that category.

The proposed rule further provides that, subject to the lapse of registration provisions in proposed Rule 1210, Commentary .07, each person registered with the Exchange as a General Securities Representative on October 1, 2018 and each person who was registered with the Exchange as a General Securities Representative within two years prior to October 1, 2018 would be qualified to register as a General Securities Representative without having to take any additional qualification examinations. Additionally, the proposed rule would require that individuals registering as General Securities Representatives after October 1, 2018 shall, prior to or concurrent with such registration, pass the SIE and the General Securities Representative examination.

9. Proposed Rule 1220(b)(3)—Securities Trader [45]

Proposed Rule 1220(b)(3) provides that each representative as defined in proposed Rule 1220(b)(1) is required to register as a Securities Trader if, with respect to transactions in equity (including equity options), preferred or convertible debt securities, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities. The proposed rule provides an exception from the registration requirement for any associated person of a member organization whose trading activities are conducted primarily on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with a member organization. The Exchange proposes to adopt FINRA's definition of Securities Trader in proposed Rule 1220(b)(3) in order to align the text of the rule to that adopted by FINRA and other exchanges.[46]

The proposed rule also requires that associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies (or responsible for the day-to-day supervision or direction of such activities) register as Securities Traders. Individuals registering as Securities Traders must pass the SIE and the Securities Trader examination.

Finally, the proposed rule provides that, subject to the lapse of registration provisions in proposed Rule 1210, Commentary .07, each person registered with the Exchange as a Securities Trader on October 1, 2018 and each person who was registered with the Exchange as a Securities Trader within two years prior to October 1, 2018 would be qualified to register as a Securities Trader without having to take any additional qualification examinations. Additionally, the proposed rule would require that individuals registering as Securities Traders after October 1, 2018 shall, prior to or concurrent with such registration, pass the SIE and the Securities Trader qualification examination.

10. Proposed Rule 1220, Commentary .01—Foreign Registrations [47]

Proposed Rule 1220, Commentary .01, states that individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with the Exchange as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain a representative-level registration. Additionally, proposed Rule 1220, Commentary .01, provides that, subject to the lapse of registration provisions in Rule 1210, Commentary .07, each person who is registered with the Exchange as a United Kingdom Securities Representative or a Canada

[40] The proposed rule is substantially similar to FINRA Rule 1220(a)(7).

[41] The proposed rule is substantially similar to FINRA Rule 1220(a)(10).

[42] An individual may also register as a General Securities Sales Supervisor by passing a combination of other principal-level examinations.

[43] The proposed rule is substantially similar to FINRA Rule 1220(b)(1).

[44] The proposed rule is substantially similar to FINRA Rule 1220(b)(2).

[45] The proposed rule is substantially similar to FINRA Rule 1220(b)(4).

[46] *See e.g.,* MIAX International Stock Exchange, LLC Rule 203(d).

[47] The proposed rule is substantially similar to FINRA Rule 1220.01 and 1220.06.

Securities Representative on October 1, 2018 and each person who was registered with the Exchange in such categories within two years prior to October 1, 2018 would be eligible to maintain such registrations with the Exchange. However, if persons registered in such categories subsequently terminate such registration(s) with the Exchange and the registration remains terminated for two or more years, they would not be eligible to re-register in such categories.

11. Proposed Rule 1220, Commentary .02—Additional Qualification Requirements for Persons Engaged in Security Futures [48]

Proposed Rule 1220, Commentary .02, states that each person who is registered with the Exchange as a General Securities Representative, United Kingdom Securities Representative, Canada Securities Representative, or General Securities Sales Supervisor shall be eligible to engage in security futures activities as a representative or principal, as applicable, provided that such individual completes a Firm Element program as set forth in Rule 345A(b) that addresses security futures products before such person engages in security futures activities.[49]

12. Proposed Rule 1220, Commentary .03—Scope of General Securities Sales Supervisor Registration Category [50]

Proposed Rule 1220, Commentary .03, explains the purpose of the General Securities Sales Supervisor registration category. The General Securities Sales Supervisor category is an alternate category of registration designed to lessen the qualification burdens on principals of general securities firms who supervise sales. Without this category of limited registration, such principals would be required to separately qualify pursuant to the rules of FINRA, the MSRB, and the options exchanges. While persons may continue to separately qualify with all relevant self-regulatory organizations, the General Securities Sales Supervisor examination permits qualification as a supervisor of sales of all securities through one registration category. Persons registered as General Securities Sales Supervisors may also qualify in any other category of principal registration. Persons who are already qualified in one or more categories of principal registration may supervise sales activities of all securities by also qualifying as General Securities Sales Supervisors.

The proposed rule further provides that any person required to be registered as a principal who supervises sales activities in corporate, municipal and option securities, investment company products, variable contracts, and security futures (subject to the requirements of Rule 1220, Commentary .02) may be registered solely as a General Securities Sales Supervisor. In addition to branch office managers, other persons such as regional and national sales managers may also be registered solely as General Securities Sales Supervisors as long as they supervise only sales activities.

F. Proposed New Rule 1230—Associated Persons Exempt From Registration [51]

Proposed Rule 1230 provides an exemption from registration with the Exchange for certain associated persons. Specifically, the proposed rule provides that persons associated with a member organization whose functions are solely and exclusively clerical or ministerial would be exempt from registration.[52]

1. Proposed Rule 1230, Commentary .01—Registration Requirements for Associated Persons Who Accept Customer Orders [53]

Proposed Rule 1230, Commentary .01, clarifies that the function of accepting customer orders is not considered clerical or ministerial and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[54] in general, and furthers the objectives of Section 6(b)(5),[55] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist member organizations and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards. In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow member organizations to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member organization, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the investment banking and securities business.

Finally, the Exchange believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

[48] The proposed rule is substantially similar to FINRA Rule 1220.02.

[49] FINRA Rule 1220.02 also includes Options Representative and Registered Options Principal registration categories. NYSE does not trade options and member organizations therefore would not be required to register with the Exchange in those categories and therefore the Exchange is not adopting those categories within proposed Rule 1220, Commentary .03 [sic].

[50] The proposed rule is substantially similar to FINRA Rule 1220.04.

[51] The proposed rule is substantially similar to FINRA Rule 1230.

[52] FINRA Rule 1230 provides an exemption from registration with FINRA to persons associated with a FINRA member whose functions are solely and exclusively clerical or ministerial and persons associated with a FINRA member whose functions are related solely and exclusively to (i) effecting transactions on the floor of a national securities exchange and who are appropriately registered with such exchange; (ii) effecting transactions in municipal securities; (iii) effecting transactions in commodities; or (iv) effecting transactions in security futures, provided that any such person is registered with a registered futures association. Member organizations do not solely and exclusively engage in any of the foregoing transactions and therefore the Exchange is not adopting that portion of FINRA Rule 1230.

[53] The proposed rule is substantially similar to FINRA Rule 1230.01.

[54] 15 U.S.C. 78f(b).

[55] 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments are intended to promote transparency in the Exchange's rules, and consistency with the rules of other SROs with respect to the examination, qualification, and continuing education requirements applicable to member organizations and their registered personnel. The Exchange believes that in that regard that any burden on competition would be clearly outweighed by the important regulatory goal of ensuring clear and consistent requirements applicable across SROs, avoiding duplication, and mitigating any risk of SROs implementing different standards in these important areas.

Further, the Exchange does not believe that the proposed amendments will affect competition among securities markets since all SROs are expected to adopt similar rules with uniform standards for qualification, registration and continuing education requirements.

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

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

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [56] and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii) [57] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on October 1, 2018 to coincide with the effective date of FINRA's proposed rule change on which the proposal is based.[58] The waiver of the operative delay would make the Exchange's qualification requirements consistent with those of FINRA, as of October 1, 2018. Therefore, the Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative on October 1, 2018.[59]

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.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2018–44 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–NYSE–2018–44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2018–44 and should be submitted on or before October 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21781 Filed 10–5–18; 8:45 am]

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[56] 15 U.S.C. 78s(b)(3)(A).

[57] 17 CFR 240.19b–4(f)(6)(iii).

[58] *See supra* note 5.

[59] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[60] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17f–2(a), SEC File No. 270–034, OMB Control No. 3235–0034

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17f–2(a) (17 CFR 240.17f–2(a)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit the existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval. Rule 17f–2(a) (Fingerprinting Requirements for Securities Professionals) requires that securities professionals be fingerprinted. This requirement serves to identify security-risk personnel, to allow an employer to make fully informed employment

decisions, and to deter possible wrongdoers from seeking employment in the securities industry. Partners, directors, officers, and employees of exchanges, brokers, dealers, transfer agents, and clearing agencies are included.

The Commission staff estimates that approximately 4,480 respondents will submit an aggregate total 289,780 new fingerprint cards each year or approximately 65 fingerprint cards per year per registrant. The staff estimates that the average number of hours necessary to complete a fingerprint card is one-half hour. Thus, the total estimated annual burden is 144,890 hours for all respondents (289,780 times one-half hour). The average internal labor cost of compliance per hour is approximately $283. Therefore, the total estimated annual internal labor cost of compliance for all respondents is $41,003,870 (144,890 times $283).

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid 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. Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 3, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21834 Filed 10–5–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33263; 812–14923]

Vident Advisory, LLC et al.

October 3, 2018.

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

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds to issue Shares in less than Creation Unit size to investors participating in a distribution reinvestment program.

APPLICANTS: ETF Series Solutions (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series and Vident Advisory, LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on June 22, 2018.

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 by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 29, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Vident Advisory, LLC, 300 Colonial Center Parkway, Suite 330, Roswell, GA 30076 and ETF Series Solutions, 615 E. Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Counsel, at (202) 551–6883, or Aaron Gilbride, Branch Chief, at (202) 551–6906 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices

[1] Applicants request that the order apply to any series of the Trust and any other open-end management investment company or series thereof (''Funds''), each of which will operate as an ETF, and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will create the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions, and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

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

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–21874 Filed 10–5–18; 8:45 am]

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[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

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, the Securities and Exchange Commission will hold an Open Meeting on Thursday, October 11, 2018 at 1:00 p.m.

PLACE: The meeting will be held in Auditorium LL–002 at the

Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 1:00 p.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED:

1. The Commission will consider whether to reopen the comment period and request additional comment (including potential modifications to proposed rule language) regarding: (1) Capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants, and amendments to Rule 15c3–1 for broker-dealers proposed in October 2012; (2) amendments proposed in May 2013 that would establish the cross-border treatment of security-based swap capital, margin, and segregation requirements; and (3) an amendment proposed in April 2014 that would establish an additional capital requirement for security-based swap dealers that do not have a prudential regulator.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: October 3, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–21995 Filed 10–4–18; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Delegation of Authority No. 460]

Delegation of Authority by the Secretary of State to the Administrator of the United States Agency for International Development of Functions and Authorities Under the Reinforcing Education Accountability in Development Act

By virtue of the authority vested in the Secretary of State by the laws of the United States, including section 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a), and the Memorandum of the President dated August 31, 2018, I hereby delegate to the Administrator of the United States Agency for International Development the functions and authorities conferred upon the President by sections 4, 6, and 7 of the Reinforcing Education Accountability in Development (READ) Act (Div. A, Pub. L. 115–56).

Any reference in this delegation of authority to any act shall be deemed to be a reference to such act as amended from time to time. The Administrator of the United States Agency for International Development may re-delegate the functions delegated by this delegation of authority, as appropriate, to the extent authorized by law.

This document shall be published in the **Federal Register**.

Dated: September 13, 2018.

Michael R. Pompeo,

Secretary of State, Department of State.

[FR Doc. 2018–21897 Filed 10–5–18; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 10583]

Notice of Public Meeting of the President's Emergency Plan for AIDS Relief (PEPFAR) Scientific Advisory Board

In accordance with the Federal Advisory Committee Act (FACA), the PEPFAR Scientific Advisory Board (hereinafter referred to as ''the Board'') will meet on Friday, October 12, 2018 at 1800 G St. NW, Suite 10300, Washington, DC 20006. The meeting will last from 8:30 a.m. until approximately 5:00 p.m. and is open to the public. The meeting will be hosted by the Office of the U.S. Global AIDS Coordinator and Health Diplomacy, and led by Ambassador Deborah Birx, who leads implementation of the President's Emergency Plan for AIDS Relief (PEPFAR), and the Board Chair, Dr. Carlos del Rio.

The Board serves solely in an advisory capacity concerning scientific developments, program implementation, and policy matters related to the global response to the HIV epidemic, which can influence the priorities and direction of PEPFAR evaluation and research, the content of national and international strategies, and the role of PEPFAR in international discourse regarding an appropriate and resourced response. Topics for the meeting will include the risks and benefits of fixed-dose Dolutegravir in light of a preliminary safety signal for women using it at the time of conception; approaches for monitoring progress as countries approach epidemic control; HPV vaccination to prevent cervical cancer; and new data from the Determined, Resilient, Empowered, AIDS-Free, Mentored, and Safe (DREAMS) initiative.

The public may attend this meeting as seating capacity allows. Admittance to the meeting will be by means of a pre-arranged clearance list. In order to be placed on the list and, if applicable, to request reasonable accommodation, please register *online* as soon as possible (*https://docs.google.com/forms/d/e/1FAIpQLSccvU95o_2MsSn8jRwGI4r9kpxBSkOQ-nARjdwNaa3HIn8PMg/viewform?c=0&w=1*). While the meeting is open to public attendance, the Board will determine procedures for public participation.

This announcement will appear in the **Federal Register** less than 15 days prior to the meeting. The Department of State finds that there is an exceptional circumstance in that this advisory committee meeting must be held on October 12th for the following reasons:

- On May 18, the World Health Organization (WHO) issued recommendations for Dolutegravir use by women of childbearing age living with HIV, following unscheduled, interim analysis of an ongoing observational study in Botswana that found an increased risk of neural tube defects in children born to women taking Dolutegravir at the time of conception.
- The final results of the study, which are needed to confirm or dispel these observations, are expected in early 2019.
- However, many countries have taken a very conservative interpretation of WHO's recommendations and are withholding a preferred first-line antiretroviral medication from women of child-bearing age, who constitute the majority of persons receiving HIV medical treatment in PEPFAR-supported programs.
- These policies deny women access to a regimen that offers superior time-to-viral suppression, side effect, and resistance profiles.
- Two independent modeling studies have shown that the clinical and public health benefits of Dolutegravir vastly outweigh the risk of possible and rare, birth defects. A consultation with African women living with HIV infection underscored that they be permitted to make informed decisions about their own medical care and to opt to take Dolutegravir rather than other, inferior regimens.

Given the above facts, the Department urgently needs the advice of the PEPFAR SAB to inform treatment considerations that the Department must release as part of its 2019 Country Operational Plan guidance that will be developed in November-December 2018, for release in January 2019. October

12th is the only date in the near future when both the members of the SAB and Ambassador Birx are available to meet on this issue.

For further information about the meeting, please contact Dr. Andrew Forsyth, Designated Federal Officer for the Board, Office of the U.S. Global AIDS Coordinator and Health Diplomacy (*ForsythAD@state.gov*).

Andrew D. Forsyth,

Office of the U.S. Global AIDS Coordinator and Health Diplomacy, Department of State.

[FR Doc. 2018–21856 Filed 10–5–18; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Reinstated Approval of Information Collection: Flight Simulation Device Initial and Continuing Qualification and Use

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This request for clearance reflects requirements necessary under regulations to ensure safety-of-flight by ensuring that complete and adequate training, testing, checking, and experience is obtained and maintained by those who operate under regulation and use flight simulation in lieu of aircraft for these functions. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 30, 2017.

DATES: Written comments should be submitted by November 8, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone: 940–594–5913.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0680.

Title: Flight Simulation Device Initial and Continuing Qualification and Use.

Form Numbers: (Pending) Forms T001A, T002, T004, T011, T011–FD2, T012, T023, T024, T025.

Type of Review: This is a reinstatement of an information collection.

Background: This information collection requires sponsors of flight simulation training devices (FSTD) to systematically plan for and implement the requirements of part 60 and the associated Qualification Performance Standard (QPS). Sponsors have been sub-grouped into small, medium, and large based on the number of training centers. A sponsor will be guided through the administrative requirements by the local principal operations inspector or training center program manager and by representatives of the National Simulator Program staff regarding any FSTD for which the sponsor applicant seeks qualification.

The FAA has determined this information collection is necessary to amend the Qualification Performance Standards for FSTDs for the primary purpose of improving existing technical standards and introducing new technical standards for full stall and stick pusher maneuvers, upset recognition and recovery maneuvers, maneuvers conducted in airborne icing conditions, takeoff and landing maneuvers in gusting crosswinds, and bounced landing recovery maneuvers. These new and improved technical standards are intended to fully define FSTD fidelity requirements for conducting new flight training tasks introduced through changes to the air carrier training requirements. This information collection also addresses updated FSTD technical standards to better align with the current international FSTD evaluation guidance and introduces a new FSTD level that expands the number of qualified flight training tasks in a fixed base flight training device. This information collection will help ensure that the training and testing environment is accurate and realistic, in accordance with regulations. The specific regulations are Title 14 CFR part 61, part 63, part 91, part 121, part 135, part 141, and part 142.

Respondents: The estimate is based on a current sponsor count of 68 that changes on a continuous basis.

Frequency: Annual.

Estimated Average Burden per Response: 44 minutes.

Estimated Total Annual Burden: 93,385 hours.

Issued in Fort Worth, TX, on September 4, 2018.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2018–21885 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: 2120–0043

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves return to the Civil Aviation Aircraft Registry of information relating to the release of a lien that has been recorded with the Registry. Regulations provide for establishing and maintaining a system for the recording of security conveyances affecting title to, or interest in U.S. civil aircraft, as well as certain specifically identified engines, propellers, or spare parts locations, and for recording of releases relating to those conveyances. Federal Aviation Regulations establish procedures for implementation. Regulations describe what information must be contained in a security conveyance in order for it to

be recorded with FAA. The convention on the International Recognition signatory, prevents, by treaty, the export of an aircraft and cancellation of its nationality marks if there is an outstanding lien recorded. The Civil Aviation Registry must have consent or release of lien from the lienholder prior to confirmation/cancellation for export.

DATES: Written comments should be submitted by December 10, 2018.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone: 940–594–5913

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0043.

Title: Recording of Aircraft Conveyances and Security Documents.

Form Numbers: AC 8050–41, Notice of Recordation.

Type of Review: For Renewal.

Background: The single form (AC Form 8050–41, Notice of Recordation) of the collection is sent to the lienholder when the Registry records the lien on aircraft, propeller(s), engine(s) and/or spare parts location(s). When the lien is satisfied, the lienholder completes Part II of the form and returns it to the Registry as official notification of the release of the lien. The collection involves return to the Civil Aviation Aircraft Registry of information relating to the release of a lien that has been recorded with the Registry. Title 49, U.S.C. Section 44108 provides for establishing and maintaining a system for the recording of security conveyances affecting title to, or interest in U.S. civil aircraft, as well as certain specifically identified engines, propellers, or spare parts locations, and for recording of releases relating to those conveyances. Federal Aviation Regulations Part 49 (14 CFR 49) establishes procedures for implementation of 49 U.S.C. 44108. Part 49 describes what information must be contained in a security conveyance in order for it to be recorded with FAA.

Respondents: Any aircraft, propeller or engine lienholder, who has received the Notice of Recordation from the Registry, who is releasing the subject lien.

Frequency: The activity frequency is not predictable.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: For FY 2017, records indicate a return of 23,681 release notifications for a total time burden of approximately 23,681 hours.

Issued in Washington, DC, on September 28, 2018.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2018–21886 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0155]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel RAY; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 8, 2018.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2018–0155 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2018–0155 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2018–0155, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RAY is:

—*Intended Commercial Use of Vessel:* ''Boat Charters''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Marina del Rey, California)

—*Vessel Length and Type:* 30′ cabin cruiser with twin Volvo Penta 5.7 gxi engines

The complete application is available for review identified in the DOT docket as MARAD–2018–0155 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the

instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2018–0155 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: October 3, 2018.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–21823 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0153]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ENDLESS SUMMER; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 8, 2018.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2018–0153 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2018–0153 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2018–0153, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ENDLESS SUMMER is:

—*Intended Commercial Use of Vessel:* ''sunset cruise, day charters, sightseeing, and luxury charter''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: St Petersburg, FL)
—*Vessel Length and Type:* 43′ Motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2018–0153 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search

MARAD–2018–0153 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: October 3, 2018.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2018–21824 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0154]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ICONA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 8, 2018.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2018–0154 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2018–0154 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2018–0154, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ICONA is:

—*Intended Commercial Use of Vessel:* ''Pleasure Charters''
—*Geographic Region Including Base of Operations:* ''New Jersey'' (Base of Operations: Stone Harbor, NJ)
—*Vessel Length and Type:* 61′ Sunseeker Predator

The complete application is available for review identified in the DOT docket as MARAD–2018–0154 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2018–0154 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: October 3, 2018.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–21821 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0156]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel IREMIA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 8, 2018.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2018–0156 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2018–0156 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2018–0156, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel IREMIA is:

—*Intended Commercial Use of Vessel:* ''Iremia's intended commercial use is to take passengers on day sails around the Tampa Bay, FL area within 50 miles offshore. Iremia will not be used for any cargo or commercial fishing purposes.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: St. Petersburg, FL)

—*Vessel Length and Type:* 43′ catamaran sailboat

The complete application is available for review identified in the DOT docket as MARAD–2018–0156 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2018–0156 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the

basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: October 3, 2018.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–21822 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2018–0147]

Notice of Rights and Protections Available Under the Federal Antidiscrimination and Whistleblower Protection Laws

AGENCY: Department of Transportation—Office of the Secretary.

ACTION: No FEAR Act notice.

SUMMARY: This Notice implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act of 2002). It is the annual obligation for Federal agencies to notify all employees, former employees, and applicants for Federal employment of the rights and protections available to them under the Federal Anti-discrimination and Whistleblower Protection Laws.

FOR FURTHER INFORMATION CONTACT: Yvette Rivera, Associate Director of the Equity and Access Division (S–32), Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W78–306, Washington, DC 20590, 202–366–5131 or by email at *Yvette.Rivera@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve this document online through the Federal Document Management System at *http://www.regulations.gov.* Electronic retrieval instructions are available under the help section of the website.

No FEAR Act Notice

On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' now recognized as the No FEAR Act (Pub. L. 107–174). One purpose of the Act is to ''require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.'' (Pub. L. 107–174, Summary). In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination'' (Pub. L. 107–174, Title I, General Provisions, section 101(1)). The Act also requires the United States Department of Transportation (USDOT) to provide this Notice to all USDOT employees, former USDOT employees, and applicants for USDOT employment. This Notice informs such individuals of the rights and protections available under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment because of race, color, religion, sex, national origin, age, disability, marital status, genetic information, or political affiliation. One or more of the following statutes prohibit discrimination on these bases: 5 U.S.C. 2302(b)(1), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 206(d), 29 U.S.C. 791, 42 U.S.C. 2000e–16 and 2000ff.

If you believe you have experienced unlawful discrimination on the bases of race, color, religion, sex, national origin, age, genetic information, and/or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or in the case of a personnel action, within 45 calendar days of the effective date of the action. A directory of EEO officers is available on the Departmental Office of Civil Rights website *http://www.transportation.gov/civil-rights,* under the ''Contact Us'' tab. You will be offered the opportunity to resolve the matter informally; if you are unable to resolve the matter informally, you can file a formal complaint of discrimination with USDOT (See, *e.g.,* 29 CFR part 1614).

If you believe you were a victim of unlawful discrimination based on age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. As an alternative to filing a complaint pursuant to 29 CFR part 1614, you can file a civil action in a United States district court under the Age Discrimination in Employment Act, against the head of an alleged discriminating agency after giving the EEOC not less than a 30-day notice of the intent to file such action. You may file such notice in writing with the EEOC via mail at P.O. Box 77960, Washington, DC 20013, the EEOC website *https://www.eeoc.gov/employees/charge.cfm,* personal delivery, or facsimile within 180 days of the occurrence of the alleged unlawful practice.

If you are alleging discrimination based on marital status or political affiliation, you may file a written discrimination complaint with the U.S. Office of Special Counsel (OSC). Form OSC–11 is available online at the OSC website *http://www.osc.gov,* under the tab to file a complaint. Additionally, you can download the form from *http://www.osc.gov/Pages/Resources-OSCForms.aspx.* Complete Form OSC–11 and mail it to the Complaints Examining Unit, U.S. Office of Special Counsel at 1730 M Street NW, Suite 218, Washington, DC 20036–4505. You also have the option to call the Complaints Examining Unit at (800) 872–9855 for additional assistance. In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the USDOT administrative or negotiated grievance procedures, if such procedures apply and are available.

If you are alleging compensation discrimination pursuant to the Equal Pay Act, and wish to pursue your allegations through the administrative process, you must contact an EEO counselor within 45 calendar days of the alleged discriminatory action as such complaints are processed under EEOC's regulations at 29 CFR part 1614. Alternatively, you may file a civil action in a court of competent jurisdiction within two years, or if the violation is willful, three years of the date of the alleged violation, regardless of whether you pursued any administrative complaint processing. The filing of a

complaint or appeal pursuant to 29 CFR part 1614 shall not toll the time for filing a civil action.

Whistleblower Protection Laws

A USDOT employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take, or fail to take, or threaten to take a personnel action against an employee or applicant because of a disclosure of information by that individual that is reasonably believed to evidence violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless the disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against a USDOT employee or applicant for making a protected disclosure is prohibited (5 U.S.C. 2302(b)(8)). If you believe you are a victim of whistleblower retaliation, you may file a written complaint with the U.S. Office of Special Counsel at 1730 M Street NW, Suite 218, Washington, DC 20036–4505 using Form OSC–11. Alternatively, you may file online through the OSC website at *http://www.osc.gov.*

Disciplinary Actions

Under existing laws, USDOT retains the right, where appropriate, to discipline a USDOT employee who engages in conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection laws up to and including removal from Federal service. If OSC initiates an investigation under 5 U.S.C. 1214, USDOT must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation (5 U.S.C. 1214). Nothing in the No FEAR Act alters existing laws, or permits an agency to take unfounded disciplinary action against a USDOT employee, or to violate the procedural rights of a USDOT employee accused of discrimination.

Additional Information

For more information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate office(s) within your agency (*e.g.,* EEO/civil rights offices, human resources offices, or legal offices). You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws at the EEOC website at *http://www.eeoc.gov* and the OSC website at *http://www.osc.gov.*

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Issued in Washington, DC, on October 2, 2018.

Charles E. James, Sr.,

Director, Departmental Office of Civil Rights, U.S. Department of Transportation.

[FR Doc. 2018–21839 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2018–0149]

Notice of Request for Comments: Preparing for the Future of Transportation: Automated Vehicles 3.0 (AV 3.0)

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of request for comments.

SUMMARY: The Office of the Secretary of Transportation (OST) invites public comment on the document, *Preparing for the Future of Transportation: Automated Vehicles 3.0 (AV 3.0)* [ISBN 978–0–16–094944–9]. This document builds upon *Automated Driving Systems 2.0: A Vision for Safety* and expands the scope to provide a framework and multimodal approach to the safe integration of AVs into the Nation's broader surface transportation system.

DATES: You should submit your comments within 60 days after the publication of *AV 3.0.*

Written Comments: Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or at *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Please contact us at *automation@dot.gov* or Sujeesh Kurup (202–366–9953) for policy issues or Timothy Mullins (202–366–9038) for legal issues.

SUPPLEMENTARY INFORMATION: *Preparing for the Future of Transportation: Automated Vehicles 3.0 (AV 3.0)* builds upon *Automated Driving Systems 2.0: A Vision for Safety,* expands the scope to all surface on-road transportation systems, and was developed through the input from a diverse set of stakeholder engagements [1] [2] throughout the Nation. *AV 3.0* is structured around three key areas: (1) Advancing multi-modal safety, (2) Reducing policy uncertainty, and (3) Outlining a process for working with DOT. The *AV 3.0* document is available at: *www.transportation.gov/av.*

The U.S. DOT sees *AV 3.0* as the beginning of a national discussion about the future of our on-road surface transportation system. The U.S. DOT is seeking public comments on the document, *Preparing for the Future of Transportation: Automated Vehicles 3.0* [ISBN 978–0–16–094944–9]. This document will necessarily evolve over time, changing based on public comment, the experience of the Department, manufacturers, suppliers, consumers, and others, and further technological innovation. The Department intends to revise and refine its approach to automation, as needed, to reflect such public input, experience,

[1] *https://www.transportation.gov/av/publicnotices.*

[2] *https://www.transportation.gov/av/events.*

and innovation, and will address significant comments received in the next revision of this document.

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the docket, please include the docket number of this document in your comments.

Please submit one copy (two copies if submitting by mail or hand delivery) of your comments, including the attachments, to the docket following the instructions given above under **ADDRESSES**. Please note, if you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.

How do I submit confidential business information?

Any submissions containing Confidential Information must be delivered to OST in the following manner:

- Submitted in a sealed envelope marked ''confidential treatment requested'';
- Accompanied by an index listing the document(s) or information that the submitter would like the Department to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant page numbers and/or section numbers within a document; and
- Submitted with a statement explaining the submitter's grounds for objecting to disclosure of the information to the public.

OST also requests that submitters of Confidential Information include a non-confidential version (either redacted or summarized) of those confidential submissions in the public docket. In the event that the submitter cannot provide a non-confidential version of its submission, OST requests that the submitter post a notice in the docket stating that it has provided OST with Confidential Information. Should a submitter fail to docket either a non-confidential version of its submission or to post a notice that Confidential Information has been provided, we will note the receipt of the submission on the docket, with the submitter's organization or name (to the degree permitted by law) and the date of submission.

Will the agency consider late comments?

The U.S. DOT will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, the agency will also consider comments received after that date. Given that we intend for the policy document to be a living document and to be developed in an iterative fashion, subsequent opportunities to comment will also be provided periodically.

How can I read the comments submitted by other people?

You may read the comments received at the address given above under COMMENTS. The hours of the docket are indicated above in the same location. You may also see the comments on the internet, identified by the docket number at the heading of this notice, at *http://www.regulations.gov.*

Issued in Washington, DC, on October 3, 2018, under authority delegated at 49 U.S.C. 1.25a.

Finch Fulton,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 2018–21840 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2018–0150]

Notice of Request for Comments: Scope of the Study on the Impact of Automated Vehicle Technologies on Workforce

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of request for comments.

SUMMARY: OST is announcing a request for information to solicit comment and feedback on the scope of the congressionally-required comprehensive analysis of the impact of automated vehicle technologies on workforce. This study will be conducted by DOT in consultation with the Department of Labor to provide a comprehensive analysis of the impact of [Advanced Driver Assist Systems] ADAS and [Highly Automated Vehicles] HAV technologies on drivers and operators of commercial motor vehicle, including the potential for any labor displacement. DOT will also coordinate this initiative with the U.S. Departments of Commerce and U.S. Department of Health and Human Services.

Each component of the study will engage the relevant interested and affected stakeholders such as industry representatives, driver and operator groups, and workforce training providers to ensure input from across the diverse commercial and non-commercial driver industry. While it may not be feasible to precisely predict the exact capabilities or timing of new automated vehicles technologies entering the marketplace, this study may construct statistical models, use-cases, and scenarios based projections based on the best available data on market forecasts, industry trends, and relevant labor markets to evaluate different technology penetration scenarios and their potential effects on the workforce and related factors.

The objectives of the request for comments on the comprehensive analysis of the impact of automated vehicle technologies on workforce are to obtain feedback into the scope of the study regarding the magnitude of the potential pace of transition in the transportation workforce and how other sectors of the workforce will adapt to the quality of life effects due to automation. The study will also examine training availability and what will be required to transition the traditional commercial driver into the new environment including transit bus automation. Finally, the study will analyze the issues of driver situational awareness in vehicles which may require operator re-engagement, the safety of truck platooning, and related traffic management.

Background: The pace of development and deployment of automated vehicle-related technology is expected to accelerate over the next decade. Likewise, the effects of this new technology on the current workforce is a concern to operators and industry. In August 2017, a Department of Commerce's Office of the Chief Economist study focused on ''workers impacted by the adoption of autonomous vehicles used on roadways, such as automobiles, buses, and trucks (*The Employment Impact of Autonomous Vehicles*,[1] Economics and Statistics Administration Issue Brief #05–17). The study found that ''. . . the adoption of AVs has the potential to impact a sizable share of jobs in the economy.'' This could include job creation as well as displacement. Also, the *America's Workforce and the Self-*

[1] *http://www.esa.doc.gov/sites/default/files/Employment%20Impact%20Autonomous%20Vehicles_0.pdf.*

Driving Future[2] report, published by Securing America's Future Energy in June 2018, outlines the potential impact of autonomous vehicles use on the labor force, noting some of the complexities in assessing job gain/loss and displacement, as well as potential long-term employment and societal benefits. In addition to the introduction of automated vehicles, the Nation's commercial driver[3] pool is impacted by other dynamics such as operator pay, route preferences, and demographics.

Advanced transportation technologies present enormous potential for improving the mobility of travelers with disabilities vastly enhancing quality of life, workplace access, and opportunities for full participation in the workforce and in society. Through the Accessible Transportation Technologies Research Initiative (ATTRI), DOT is leading efforts to develop and implement transformative applications to improve mobility options for all travelers, particularly those with disabilities. DOT is seeking to explore innovative travel options focusing its efforts on removing barriers to transportation for people with visual, hearing, cognitive, and mobility disabilities through all steps of the trip-making process. DOT seeks to remove barriers to transportation across the ''complete trip'' chain leveraging advanced technology to enable people to travel independently any time, to any place, regardless of their individual abilities.

The 2018 Consolidated Appropriations Act provided up to $1.5 million to the Secretary of Transportation, in consultation with the Secretary of Labor, to conduct a comprehensive analysis of the impact of ADAS and HAV technologies on drivers and operators of commercial motor vehicles, including labor displacement. For purposes of this analysis, drivers and operators, who earn an income by driving, of commercial motor vehicles includes drivers which require a commercial driver's license and those that do not; and package delivery drivers, taxi, mobility as a service, and Transportation Network Companies (TNC).

Statement of Work (SOW): The general areas of inquiry are summarized and listed below. Specific research questions could be further adopted during the study examination after assumptions and study parameters are validated based on input and feedback obtained through the request for comments period. Comments obtained from this notice period will be used to calibrate the study strategy to enable the maximum value proposition.

1. Labor force transformation studies including potential statistical models to generate estimates of labor force effects given various HAV and ADAS adoption/timeline scenarios and segments of freight and passenger transportation that could be affected.

2. Labor force training needs including minimum and recommended training requirements, labor market programs that link workers to employment and public or private training programs to address skill gaps.

3. Technology operational safety issues impact to situational awareness caused by HAV and ADAS including options for reducing safety risks of reduced situational awareness and visibility, mobility, and safety issues related to platooning.

4. Quality of life improvements due to automation including mental fatigue related to traffic and queueing; enhanced travel choices, new job opportunities, and accessibility leading to independent travel and workplace access for people with disabilities, older adults, and individuals with functional impairments across the lifespan.

Area of inquiry	Research questions	General study tasks
1. Labor Force Transformation/Displacement		
Pace of potential job displacement from ADAS and HAV adoption. Segments of freight and passenger transportation that could be affected.	When should stakeholders anticipate widespread introduction of AV technology which would directly impact the driver workforce? What are the potential effects from the different scenarios regarding adoption timelines and technology developments on the professional driver labor force? What are the defined segments of commercial drivers in the United States? Which of these segments are most likely to be impacted, negatively or positively, and to what extent?	Conduct a comprehensive literature review of related studies and methodologies. Create a predictive statistical model to generate estimates of labor force effects given various adoption/timeline scenarios. The model should be well-documented and replicable by outside parties. Create a typology of the specific segments of commercial and non-commercial drivers as it relates to trucks, buses, mail/package delivery drivers, and taxis/transportation network companies. Identify each segment most likely to be effected, and the extent of that effect. The effect could be job displacement or increased demand for that driver segment.
2. Labor Force Training Needs		
Minimum and recommended training requirements.	As commercial and non-commercial drivers transition into other transportation, or even unrelated, positions, what are new likely opportunities and what are the minimum levels of training and skills necessary to occupy those positions? What are the training/skills requirements for those jobs most in demand?	Catalog and annotate comparative studies from other transitioning labor markets *e.g.* manufacturing, agriculture, banking, etc. Identify the possible training needs for the variety of commercial and non-commercial drivers potentially impacted by AVs—both newly created transportation jobs or jobs in related or non-related sectors. Produce recommendations of training requirements to meet the needs identified and evaluate the available federal and state programs to meet these needs.
Existing labor market programs that link workers to employment.	What federal and state government-sponsored programs are used to match individuals with employment opportunities? What is the capacity of each program to meet the needs of displaced commercial and non-commercial drivers?	Prepare and annotate a comprehensive inventory of current federal and state labor market programs that link workers to job opportunities. Evaluate the capacity of these programs to meet the needs of commercial and non-commercial drivers displaced by autonomous vehicles.
Identification of how existing public or private training programs can be modified to address skill gaps.	What gap(s) exist between existing programs and the needs of commercial and non-commercial drivers, including transitioning to new jobs? If gaps exist, what recommended modifications to existing programs are needed to meet these needs?	Identify modifications to existing public or private training programs to include the teaching of new skills to safely operate ADS equipped vehicles as well as new skills needed to transition to other jobs.

[2] *https://avworkforce.secureenergy.org/wp-content/uploads/2018/06/Groshen-et-al-Report-June-2018-1.pdf.*

[3] Commercial drivers for the scope of this study is defined as professional drivers who earn a living driving tow trucks, tractor trailers, motor coaches, and buses.

Area of inquiry	Research questions	General study tasks
3. Technology Operational Safety Issues		
Impact to situational awareness caused by ADS and ADAS.	What are the risks of reduced situational awareness for a driver using ADAS technology, such as the potential for increased drowsiness?	Complete a literature review on the risks of the lack of driver vigilance and reduced situational awareness when operating a vehicle equipped with ADS or ADAS technologies. Produce a typology on the kinds of risks that are generated by this technology.
Options for reducing safety risks of reduced situational awareness.	Quantify the likelihood of reduced driver situational awareness and identify methods and options to mitigate these risks.	Review existing human subject research and engage relevant stakeholders to identify existing and potential technological applications to address human factors risk.
Visibility, mobility, and safety issues related to platooning.	What are the principle safety issues associated with the use of platooning such as the reduced visibility of drivers in the following vehicles, and the interaction of passenger cars with truck platoons at highway speeds? What are the potential positive benefits of platooning technologies?	Identify and catalog existing studies on visibility, mobility, and safety issues related to truck platooning. Provide an annotated inventory of current or developing technologies which can address these issues and their likelihood of adoption. Catalog state laws addressing truck platoon operations.
4. Quality of Life Effects Due to Automation		
Potential effects to health and quality of life due to ADS and ADAS.	Given that higher level of automation allows drivers, subject to this study, to conduct other tasks other than driving, how will this impact the health and quality of life of the driving labor force.	Conduct a comprehensive literature review of health issues associated with commercial and non-commercial drivers, including mental fatigue related to traffic and queueing.
	What are the potential economic benefits to increased access to jobs and the community for transportation-disadvantaged riders such as people with disabilities and seniors.	Explore insights into how HAV and ADAS can mitigate health issues, state of the industry pertaining to ADAS and HAV mobility as a service including research studies relating to technology readiness, enabling new job opportunities, and gaps in achieving the complete trip vision for older Americans and people with disabilities.

Note: Each of the four study components may include stakeholder outreach, as appropriate, to inform the analysis and identify relevant data sources.

Comments are requested on the following questions regarding the Statement of Work:

1. Is the SOW in line with public interest?
2. Should the SOW be expanded or reduced to include or exclude any topic(s)?
3. Are there specific literature or studies that have been conducted on this subject that DOT and DOL should review before initiating this comprehensive analysis?

All comments and presentations should be submitted to the docket for consideration.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, please contact us at *automation@dot.gov* or *Kareem Habib (202–366–1601) or Sujeesh Kurup (202–366–9953).*

SUPPLEMENTARY INFORMATION:

Written Comments: Please submit all written comments no later than November 5, 2018, by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: DOT, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* 202–366–1767.

Instructions: All submissions must include the Agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

Docket: For access to the docket, go to *http://www.regulations.gov* to find Docket No. DOT–OST–2018–0150 at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477–78), or you may visit *http://www.regulations.gov/privacy.html.*

Confidential Information: Any submissions containing Confidential Information must be delivered to OST in the following manner:

○ Submitted in a sealed envelope marked ''confidential treatment requested'';

○ Accompanied by an index listing the document(s) or information that the submitter would like the Departments to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant pages numbers and/or section numbers within a document; and

○ Submitted with a statement explaining the submitter's grounds for objecting to disclosure of the information to the public.

OST also requests that submitters of Confidential Information include a non-confidential version (either redacted or summarized) of those confidential submissions in the public docket. In the event that the submitter cannot provide a non-confidential version of its submission, OST requests that the submitter post a notice in the docket stating that it has provided OST with Confidential Information. Should a submitter fail to docket either a non-confidential version of its submission or to post a notice that Confidential Information has been provided, we will note the receipt of the submission on the docket, with the submitter's organization or name (to the degree permitted by law) and the date of submission.

Issued in Washington, DC, on October 3, 2018, under authority delegated at 49 U.S.C. 1.25a.

Finch Fulton,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 2018–21842 Filed 10–5–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1065, 1065–B, 1066, 1120, 1120–C, 1120–F, 1120–H, 1120–ND, 1120–S, 1120–SF, 1120–FSC, 1120–L, 1120–PC, 1120–REIT, 1120–RIC, 1120–POL, and Related Attachments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA). The IRS is soliciting comments on forms used by business entity taxpayers: Forms 1065, 1065–B, 1066, 1120, 1120–C, 1120–F, 1120–H, 1120–ND, 1120–S, 1120–SF, 1120–FSC, 1120–L, 1120–PC, 1120–REIT, 1120–RIC, 1120–POL; and related attachments to these forms (see the Appendix to this notice).

DATES: Written comments should be received on or before December 10, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at (202) 317–6038, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION: Today, over 90 percent of all business entity tax returns are prepared using software or with preparer assistance. In this environment, in which many taxpayers' activities are no longer as directly associated with particular forms, estimating burden on a form-by-form basis is not an appropriate measurement of taxpayer burden.

There are 274 forms used by business taxpayers. These include Forms *1065, 1065–B, 1066, 1120, 1120–C, 1120–F, 1120–H, 1120–ND, 1120–S, 1120–SF, 1120–FSC, 1120–L, 1120–PC, 1120–REIT, 1120–RIC, 1120–POL,* and related schedules, that business entity taxpayers attach to their tax returns (see the Appendix to this notice). For most of these forms, IRS has in the past obtained separate OMB approvals under unique OMB Control Numbers and separate burden estimates.

Tax Compliance Burden

Tax compliance burden is defined as the time and money taxpayers spend to comply with their tax filing responsibilities. Time-related activities include recordkeeping, tax planning, gathering tax materials, learning about the law and what you need to do, and completing and submitting the return. Out-of-pocket costs include expenses such as purchasing tax software, paying a third-party preparer, and printing and postage. Tax compliance burden does not include a taxpayer's tax liability, economic inefficiencies caused by sub-optimal choices related to tax deductions or credits, or psychological costs.

The TCBM estimates the aggregate burden imposed on business taxpayers, based upon their tax-related characteristics and activities. IRS therefore will seek OMB approval of all 274 business-related tax forms as a single ''collection of information.'' The aggregate burden of these tax forms will be accounted for under OMB Control Number 1545–0123, which is currently assigned to Form 1120 and its related schedules. OMB Control Number 1545–0123 will be displayed on all business tax forms and other information collections. As a result, burden estimates for business taxpayers will be displayed differently in PRA Notices on tax forms and other information collections, and in **Federal Register** notices. This way of displaying burden is presented below under the heading ''Proposed PRA Submission to OMB.'' Because some of the forms used by business taxpayers are also used by tax-exempt organizations, trusts and estates and other kinds of taxpayers, there will be a transition period during which IRS will report different burden estimates for individual taxpayers (OMB Control Number 1545–0074), tax-exempt organization taxpayers (OMB Control Number 1545–0047), business taxpayers (OMB Control Number 1545–0123), and another OMB Control Number for other taxpayers using the same forms. For those forms covered under OMB Control Numbers 1545–0074, 1545–0047 and/or 1545–0123 used by other taxpayers, IRS will display the OMB Control Number related to the other filers on the form and provide the burden estimate for those taxpayers in the form instructions. The form instructions will refer readers to the burden estimates for individual, tax-exempt organization and/or business taxpayers, as applicable. The burden estimates for business taxpayers will be reported and accounted for as described in this notice. The burden estimates for individual taxpayers will continue to be reported and accounted for under OMB Control Number 1545–0074 using a method similar to the method described in this notice. The burden estimates for other users of these forms will be determined under prior methodology based on form length and complexity.

Proposed PRA Submission to OMB

Title: U.S. Business Income Tax Return.

OMB Number: 1545–0123.

Form Numbers: Forms 1065, 1065–B, 1066, 1120, 1120–C, 1120–F, 1120–H, 1120–ND, 1120–S, 1120–SF, 1120–FSC, 1120–L, 1120–PC, 1120–REIT, 1120–RIC, 1120–POL and all attachments to these forms (see the Appendix to this notice).

Abstract: These forms are used by businesses to report their income tax liability. The data is used to verify that the items reported on the forms are correct, and also for general statistics use.

Current Actions: The change in estimated aggregate compliance burden can be explained by three major sources—technical adjustments, statutory changes, and discretionary agency (IRS) actions.

Technical Adjustments—The technical changes account for much of the change between FY18 and FY19. The changes are from an adjustment to the baseline FY18 population forecasts and the growth in filings between FY18 and FY19. Taken together, these adjustments lead to a 42,000,000 hour increase in aggregate time and a $794,000,000 increase in out-of-pocket costs.

Statutory Changes—The primary statutory changes are associated with the elimination of certain tax provisions and the introduction of several international provisions that were included in the 2017 Tax Cuts and Jobs Act (TCJA), which first came into effect in 2018. TCJA eliminated the corporate alternative minimum tax, the domestic production activities deduction, and a number of general business credits. The elimination of these provisions is estimated to reduce aggregate time by 100,000 hours and reduce aggregate out-of-pocket costs by $4,000,000. TCJA also introduced a number of international provisions, such as the inclusion of Global Intangible Low-Taxed Income (GILTI) as taxable income, the Foreign-Derived Intangible Income deduction (FDII), and the Base Erosion and Anti-

Abuse Tax (BEAT). Information on the administration of these provisions is limited as of the date this estimate was calculated, so an extensive evaluation of their direct costs cannot be provided at this time. However, current model based estimates using the level of foreign activity reported on prior tax returns implies an increase in aggregate time burden of 900,000 hours and an increase in out-of-pocket costs of $49,000,000. Note: To avoid double-counting, burden estimates for TCJA provisions that are reported under separate OMB control numbers as Regulation Impact Analyses are not included in this collection.

IRS Discretionary Changes—All IRS discretionary changes had an insignificant impact on taxpayer burden.

Total—Taken together, the changes discussed above result in a net increase in total time burden of 43,000,000 hours and a net increase in total money burden of $839,000,000. The increase in total monetized burden is $2,560,000,000.

Type of Review: Revision of currently approved collections.

Affected Public: Corporation and Pass-Through Entities.

Estimated Number of Respondents: 11,300,000.

Total Estimated Time: 3.157 billion hours (3,157,000,000 hours).

Estimated Time per Respondent: 279.38 hours.

Total Estimated Out-of-Pocket Costs: $58.148 billion ($58,148,000,000).

Estimated Out-of-Pocket Cost per FY2018. Respondent: $5,146.

Note: Amounts below are for FY2018 and FY2019. Reported time and cost burdens are national averages and do not necessarily reflect a ''typical'' case. Most taxpayers experience lower than average burden, with taxpayer burden varying considerably by taxpayer type. Detail may not add due to rounding.

FISCAL YEAR 2018 ICB ESTIMATES FOR FORM 1120 AND 1065 SERIES WITH CHANGES TO FISCAL YEAR 2019

	2018 and 2019				
	FY19	Program change due to adjustment	Program change due to new legislation	Program change due to agency	FY18
Number of Taxpayers	11,300,000	200,000			11,100,000
Burden in Hours	3,157,000,000	42,000,000	800,000		3,114,000,000
Burden in Dollars	58,148,000,000	794,000,000	45,000,000		57,309,000,000
Monetized Total Burden	180,493,000,000	2,432,000,000	128,000,000		177,933,000,000

For Reference: Fiscal Year 2017 (Previously Approved by OMB) to 2018 Changes

The change in estimated aggregate compliance burden between fiscal year 2017 and 2018 can be explained by technical adjustments since no significant statutory or discretionary agency (IRS) changes occurred. The technical changes are from an adjustment to the baseline FY17 population forecasts and the growth in certain filings between FY18 and FY19. These adjustments lead to a 74,000,000 hour increase in aggregate time and a $3,669,000,000 increase in out-of-pocket costs.

FISCAL YEAR 2017 ICB ESTIMATES FOR FORM 1120 AND 1065 SERIES WITH CHANGES TO FISCAL YEAR 2018

	2017 and 2018				
	FY18	Program change due to adjustment	Program change due to new legislation	Program change due to agency	Previously approved FY17
Number of Taxpayers	11,100,000	100,000			11,000,000
Burden in Hours	3,114,000,000	74,000,000			3,040,000,000
Burden in Dollars	57,309,000,000	3,669,000,000			53,640,000,000
Monetized Total Burden	177,933,000,000	10,283,000,000			167,650,000,000

Detail may not add due to rounding.
Source RAAS:KDA:TBL 10/1/18.

Approved: October 3, 2018.

Laurie Brimmer,

Senior Tax Analyst.

APPENDIX

Product	Title
Form 1000	Ownership Certificate.
Form 1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.
Form 1065	U.S. Return of Partnership Income.
Form 1065–B	U.S. Return of Income for Electing Large Partnerships.
Form 1065 B SCH K–1	Partner's Share of Income (Loss) From an Electing Large Partnership.
Form 1065 (SCH B–1)	Information for Partners Owning 50% or More of the Partnership.
Form 1065 (SCH B–2)	Election Out of the Centralized Partnership Audit Regime.
Form 1065 (SCH C)	Additional Information for Schedule M–3 Filers.
Form 1065 (SCH D)	Capital Gains and Losses.
Form 1065 (SCH D–1)	Continuation Sheet for Schedule D (Forms 1065, 1065–B, and 8865).

APPENDIX—Continued

Product	Title
Form 1065 (SCH K–1)	Partner's Share of Income, Deductions, Credits, etc.
Form 1065 (SCH M–3)	Net Income (Loss) Reconciliation for Certain Partnerships.
Form 1065X	Amended Return or Administrative Adjustment Request (AAR).
Form 1066	U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return.
Form 1066 (SCH A)	Additional REMIC (Real Estate Mortgage Investment Conduits) Taxes.
Form 1066 (SCH Q)	Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation.
Form 1099 LS	Reportable Life Insurance Sale.
Form 1118	Foreign Tax Credit-Corporations.
Form 1118 (SCH I)	Reduction of Foreign Oil and Gas Taxes.
Form 1118 (SCH J)	Adjustments to Separate Limitation Income (Loss) Categories for Determining Numerators of Limitation Fractions, Year-End Recharacterization Balances, and Overall Foreign and Domestic Loss Account Balances.
Form 1118 (SCH K)	Foreign Tax Carryover Reconciliation Schedule.
Form 1120	U.S. Corporation Income Tax Return.
Form 1120 (SCH B)	Additional Information for Schedule M–3 Filers.
Form 1120 (SCH D)	Capital Gains and Losses.
Form 1120 (SCH G)	Information on Certain Persons Owning the Corporation's Voting Stock.
Form 1120 (SCH H)	Section 280H Limitations for a Personal Service Corporation (PSC).
Form 1120 (SCH M–3)	Net Income (Loss) Reconciliation for Corporations With Total Assets of $10 Million of More.
Form 1120 (SCH N)	Foreign Operations of U.S. Corporations.
Form 1120 (SCH O)	Consent Plan and Apportionment Schedule for a Controlled Group.
Form 1120 (SCH PH)	U.S. Personal Holding Company (PHC) Tax.
Form 1120 (SCH UTP)	Uncertain Tax Position Statement.
Form 1120–C	U.S. Income Tax Return for Cooperative Associations.
Form 1120F	U.S. Income Tax Return of a Foreign Corporation.
Form 1120–F (SCH H)	Deductions Allocated to Effectively Connected Income Under Regulations Section 1.861–8.
Form 1120–F (SCH I)	Interest Expense Allocation Under Regulations Section 1.882–5.
Form 1120–F (SCH M1 & M2)	Reconciliation of Income (Loss) and Analysis of Unappropriated Retained Earnings per Books.
Form 1120–F (SCH M–3)	Net Income (Loss) Reconciliation for Foreign Corporations With Reportable Assets of $10 Million or More.
Form 1120–F (SCH P)	List of Foreign Partner Interests in Partnerships.
Form 1120–F(SCH S)	Exclusion of Income From the International Operation of Ships or Aircraft Under Section 883.
Form 1120–F (SCH V)	List of Vessels or Aircraft, Operators, and Owners.
Form 1120–FSC	U.S. Income Tax Return of a Foreign Sales Corporation.
Form 1120FSC (SCH P)	Transfer Price or Commission.
Form 1120H	U.S. Income Tax Return for Homeowners Associations.
Form 1120–IC–DISC	Interest Charge Domestic International Sales Corporation Return.
Form 1120–IC–DISC (SCH K)	Shareholder's Statement of IC–DISC Distributions.
Form 1120–IC–DISC (SCH P)	Intercompany Transfer Price or Commission.
Form 1120–IC–DISC (SCH Q)	Borrower's Certificate of Compliance With the Rules for Producer's Loans.
Form 1120–L	U.S. Life Insurance Company Income Tax Return.
Form 1120–L (SCH M–3)	Net Income (Loss) Reconciliation for U.S. Life Insurance Companies With Total Assets of $10 Million or More.
Form 1120–ND	Return for Nuclear Decommissioning Funds and Certain Related Persons.
Form 1120–PC	U.S. Property and Casualty Insurance Company Income Tax Return.
Form 1120–PC (SCH M–3)	Net Income (Loss) Reconciliation for U.S. Property and Casualty Insurance Companies With Total Assets of $10 Million or More.
Form 1120–POL	U.S. Income Tax Return for Certain Political Organizations.
Form 1120–REIT	U.S. Income Tax Return for Real Estate Investment Trusts.
Form 1120–RIC	U.S. Income Tax Return for Regulated Investment Companies.
Form 1120 S	U.S. Income Tax Return for an S Corporation.
Form 1120S (SCH B–1)	Information on Certain Shareholders of an S Corporation.
Form 1120S (SCH D)	Capital Gains and Losses and Built-In Gains.
Form 1120S (SCH K–1)	Shareholder's Share of Income, Deductions, Credits, etc.
Form 1120S (SCH M–3)	Net Income (Loss) Reconciliation for S Corporations With Total Assets of $10 Million or More.
Form 1120–SF	U.S. Income Tax Return for Settlement Funds (Under Section 468B).
Form 1120–W	Estimated Tax for Corporations.
Form 1120–X	Amended U.S. Corporation Income Tax Return.
Form 1122	Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income Tax Return.
Form 1125–A	Cost of Goods Sold.
Form 1125–E	Compensation of Officers.
Form 1127	Application for Extension of Time for Payment of Tax.
Form 1128	Application to Adopt, Change, or Retain a Tax Year.
Form 1138	Extension of Time For Payment of Taxes By a Corporation Expecting a Net Operating Loss Carryback.
Form 1139	Corporation Application for Tentative Refund.
Form 2220	Underpayment of Estimated Tax By Corporations.
Form 2438	Undistributed Capital Gains Tax Return.
Form 2439	Notice to Shareholder of Undistributed Long-Term Capital Gains.
Form 2553	Election by a Small Business Corporation.
Form 2848	Power of Attorney and Declaration of Representative.
Form 3115	Application for Change in Accounting Method.
Form 3468	Investment Credit.
Form 3520	Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts.

APPENDIX—Continued

Product	Title
Form 3520 A	Annual Return of Foreign Trust With a U.S. Owner.
Form 3800	General Business Credit.
Form 4136	Credit for Federal Tax Paid on Fuels.
Form 4255	Recapture of Investment Credit.
Form 4466	Corporation Application for Quick Refund of Overpayment of Estimated Tax.
Form 4562	Depreciation and Amortization (Including Information on Listed Property).
Form 461	Limitations on Business Losses.
Form 4626	Alternative Minimum Tax—Corporations.
Form 4684	Casualties and Thefts.
Form 4797	Sales of Business Property.
Form 4810	Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).
Form 4876A	Election to Be Treated as an Interest Charge DISC.
Form 5452	Corporate Report of Nondividend Distributions.
Form 5471	Information Return of U.S. Persons With Respect To Certain Foreign Corporations.
Form 5471 (SCH E)	Income, War Profits, and Excess Profits Taxes Paid or Accrued.
Form 5471 (SCH H)	Current Earnings and Profits.
Form 5471 (SCH I–1)	Information for Global Intangible Low-Taxed Income.
Form 5471 (SCH J)	Accumulated Earnings and Profits (E&P) of Controlled Foreign Corporation.
Form 5471 (SCH M)	Transactions Between Controlled Foreign Corporation and Shareholders or Other Related Persons.
Form 5471 (SCH O)	Organization or Reorganization of Foreign Corporation, and Acquisitions and Dispositions of its Stock.
Form 5471 (SCH P)	Transfer of Property to a Foreign Corporation.
Form 5472	Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business.
Form 56	Notice Concerning Fiduciary Relationship.
Form 56F	Notice Concerning Fiduciary Relationship of Financial Institution.
Form 5712	Election To Be Treated as a Possessions Corporation Under Section 936.
Form 5712 A	Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5).
Form 5713	International Boycott Report.
Form 5713 (SCH A)	International Boycott Factor (Section 999(c)(1)).
Form 5713 (SCH B)	Specifically Attributable Taxes and Income (Section 999(c)(2)).
Form 5713 (SCH C)	Tax Effect of the International Boycott Provisions.
Form 5735	American Samoa Economic Development Credit.
Form 5735 (SCH P)	Allocation of Income and Expenses Under Section 936(h)(5).
Form 5884	Work Opportunity Credit.
Form 5884–B	New Hire Retention Credit.
Form 6198	At-Risk Limitations.
Form 6478	Alcohol and Cellulosic Biofuel Fuels Credit.
Form 6627	Environmental Taxes.
Form 6765	Credit for Increasing Research Activities.
Form 6781	Gains and Losses From Section 1256 Contracts and Straddles.
Form 7004	Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns.
Form 8023	Elections Under Section 338 for Corporations Making Qualified Stock Purchases.
Form 8050	Direct Deposit Corporate Tax Refund.
Form 8082	Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR).
Form 8275	Disclosure Statement.
Form 8275R	Regulation Disclosure Statement.
Form 8279	Election to be treated as a FSC or as a small FSC.
Form 8281	Information Return for Publicly Offered Original Issue Discount Instruments.
Form 8283	Noncash Charitable Contributions.
Form 8288	U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests.
Form 8288 A	Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.
Form 8288 B	Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.
Form 8300	Report of Cash Payments Over $10,000 Received In a Trade or Business.
Form 8300 (SP)	Informe de Pagos en Efectivo en Exceso de $10,000 Recibidos en una Ocupacion o Negocio.
Form 8302	Electronic Deposit of Tax Refund of $1 Million or More.
Form 8308	Report of a Sale or Exchange of Certain Partnership Interests.
Form 8329	Lender's Information Return for Mortgage Credit Certificates (MCCs).
Form 8404	Interest Charge on DISC-Related Deferred Tax Liability.
Form 8453–B	U.S. Electing Large Partnership Declaration for an IRS e-file Return.
Form 8453–C	U.S. Corporation Income Tax Declaration for an IRS e-file Return.
Form 8453–I	Foreign Corporation Income Tax Declaration for an IRS e-file Return.
Form 8453–P	U.S. Partnership Declaration and Signature for Electronic Filing.
Form 8453–PE	U.S. Partnership Declaration for an IRS e-file Return.
Form 8453–S	U.S. S Corporation Income Tax Declaration for an IRS e-file Return.
Form 8453–X	Political Organization Declaration for Electronic Filing of Notice of Section 527 Status.
Form 851	Affiliations Schedule.
Form 8586	Low-Income Housing Credit.
Form 8594	Asset Acquisition Statement Under Section 1060.
Form 8609	Low-Income Housing Credit Allocation and Certification.
Form 8609–A	Annual Statement for Low-Income Housing Credit.
Form 8610	Annual Low-Income Housing Credit Agencies Report.

APPENDIX—Continued

Product	Title
Form 8610 (SCH A)	Carryover Allocation of Low-Income Housing Credit.
Form 8611	Recapture of Low-Income Housing Credit.
Form 8621	Return By Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.
Form 8621–A	Return by a Shareholder Making Certain Late Elections to End Treatment as a Passive Foreign Investment Company.
Form 8655	Reporting Agent Authorization.
Form 8693	Low-Income Housing Credit Disposition Bond.
Form 8697	Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.
Form 8703	Annual Certification of a Residential Rental Project.
Form 8716	Election To Have a Tax Year Other Than a Required Tax Year.
Form 8752	Required Payment or Refund Under Section 7519.
Form 8804	Annual Return for Partnership Withholding Tax (Section 1446).
Form 8804 (SCH A)	Penalty for Underpayment of Estimated Section 1446 Tax for Partnerships.
Form 8804–W	Installment Payments of Section 1446 Tax for Partnerships.
Form 8805	Foreign Partner's Information Statement of Section 1446 Withholding tax.
Form 8806	Information Return for Acquisition of Control or Substantial Change in Capital Structure.
Form 8810	Corporate Passive Activity Loss and Credit Limitations.
Form 8813	Partnership Withholding Tax Payment Voucher (Section 1446).
Form 8816	Special Loss Discount Account and Special Estimated Tax Payments for Insurance Companies.
Form 8819	Dollar Election Under Section 985.
Form 8820	Orphan Drug Credit.
Form 8822B	Change of Address—Business.
Form 8824	Like-Kind Exchanges.
Form 8825	Rental Real Estate Income and Expenses of a Partnership or an S Corporation.
Form 8826	Disabled Access Credit.
Form 8827	Credit for Prior Year Minimum Tax-Corporations.
Form 8832	Entity Classification Election.
Form 8833	Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).
Form 8835	Renewable Electricity, Refined Coal, and Indian Coal Production Credit.
Form 8838	Consent to Extend the Time To Assess Tax Under Section 367-Gain Recognition Agreement.
Form 8838–P	Consent To Extend the Time To Assess Tax Pursuant to the Gain Deferral Method (Section 721(c)).
Form 8842	Election to Use Different Annualization Periods for Corporate Estimated Tax.
Form 8844	Empowerment Zone and Renewal Community Employment Credit.
Form 8845	Indian Employment Credit.
Form 8846	Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.
Form 8850	Pre-Screening Notice and Certification Request for the Work Opportunity Credit.
Form 8858	Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (FDEs) and Foreign Branches (FBs).
Form 8858 (SCH M)	Transactions Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer or Other Related Entities.
Form 8864	Biodiesel and Renewable Diesel Fuels Credit.
Form 8865	Return of U.S. Persons With Respect to Certain Foreign Partnerships.
Form 8865 (SCH H)	Acceleration to Gain Deferral Method Under Section 721(c).
Form 8865 (SCH G)	Statement of Application for the Gain Deferral Method Under Section.
Form 8865 (SCH K–1)	Partner's Share of Income, Credits, Deductions, etc.
Form 8865 (SCH O)	Transfer of Property to a Foreign Partnership.
Form 8865 (SCH P)	Acquisitions, Dispositions, and Changes of Interests in a Foreign Partnership.
Form 8866	Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.
Form 8869	Qualified Subchapter S Subsidiary Election.
Form 8871	Political Organization Notice of Section 527 Status.
Form 8872	Political Organization Report of Contributions and Expenditures.
Form 8873	Extraterritorial Income Exclusion.
Form 8874	New Markets Credit.
Form 8875	Taxable REIT Subsidiary Election.
Form 8878–A	IRS e-file Electronic Funds Withdrawal Authorization for Form 7004.
Form 8879–B	IRS e-file Signature Authorization for Form 1065–B.
Form 8879–C	IRS e-file Signature Authorization for Form 1120.
Form 8879–I	IRS e-file Signature Authorization for Form 1120–F.
Form 8879–PE	IRS e-file Signature Authorization for Form 1065.
Form 8879–S	IRS e-file Signature Authorization for Form 1120S.
Form 8881	Credit for Small Employer Pension Plan Startup Costs.
Form 8882	Credit for Employer-Provided Childcare Facilities and Services.
Form 8883	Asset Allocation Statement Under Section 338.
Form 8884	New York Liberty Zone Business Employee Credit.
Form 8886	Reportable Transaction Disclosure Statement.
Form 8886–T	Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction.
Form 8893	Election of Partnership Level Tax Treatment.
Form 8894	Request to Revoke Partnership Level Tax Treatment Election.
Form 8896	Low Sulfur Diesel Fuel Production Credit.
Form 8900	Qualified Railroad Track Maintenance Credit.
Form 8902	Alternative Tax on Qualified Shipping Activities.

APPENDIX—Continued

Product	Title
Form 8903	Domestic Production Activities Deduction.
Form 8906	Distilled Spirits Credit.
Form 8907	Nonconventional Source Fuel Credit.
Form 8908	Energy Efficient Home Credit.
Form 8909	Energy Efficient Appliance Credit.
Form 8910	Alternative Motor Vehicle Credit.
Form 8911	Alternative Fuel Vehicle Refueling Property Credit.
Form 8912	Credit to Holders of Tax Credit Bonds.
Form 8916	Reconciliation of Schedule M–3 Taxable Income with Tax Return Taxable Income for Mixed Groups.
Form 8916–A	Supplemental Attachment to Schedule M–3.
Form 8918	Material Advisor Disclosure Statement.
Form 8923	Mining Rescue Team Training Credit.
Form 8925	Report of Employer-Owned Life Insurance Contracts.
Form 8926	Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.
Form 8927	Determination Under Section 860(e)(4) by a Qualified Investment Entity.
Form 8930	Qualified Disaster Recovery Assistance Retirement Plan Distributions and Repayments.
Form 8931	Agricultural Chemicals Security Credit.
Form 8932	Credit for Employer Differential Wage Payments.
Form 8933	Carbon Dioxide Sequestration Credit.
Form 8936	Qualified Plug-In Electric Drive Motor Vehicle Credit.
Form 8937	Report of Organizational Actions Affecting Basis.
Form 8938	Statement of Foreign Financial Assets.
Form 8941	Credit for Small Employer Health Insurance Premiums.
Form 8942	Application for Certification of Qualified Investments Eligible for Credits and Grants Under the Qualifying Therapeutic Discovery Project.
Form 8947	Report of Branded Prescription Drug Information.
Form 8949	Sales and Other Dispositions of Capital Assets.
Form 8966	FATCA Report.
Form 8966–C	Cover Sheet for Form 8966 Paper Submissions.
Form 8990	Limitation on Business Interest Expense IRC 163(j).
Form 8991	Tax on Base Erosion Payments of Taxpayers with Substantial Gross Receipts.
Form 8992	U.S Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI).
Form 8993	Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI).
Form 8994	Employer Credit for Paid Family and Medical Leave.
Form 8996	Qualified Opportunity Fund.
Form 926	Return by a U.S. Transferor of Property to a Foreign Corporation.
Form 965	Corporate and Real Estate Investment Trust (REIT) Report of Net 965 Tax Liability and REIT Report of Net 965 Inclusion.
Form 965 B	Corporate and Real Estate Investment Trust (REIT) Report of Net 965 Tax Liability and REIT Report of Net 965 Inclusion.
Form 965 (SCH–A)	U.S. Shareholder's Section 965(a) Inclusion Amount.
Form 965 (SCH–B)	Deferred Foreign Income Corporation's Earnings and Profits.
Form 965 (SCH–C)	U.S. Shareholder's Aggregate Foreign Earnings and Profits Deficit.
Form 965 (SCH–D)	U.S. Shareholder's Aggregate Foreign Cash Position.
Form 965 (SCH–E)	U.S. Shareholder's Aggregate Foreign Cash Position Detail.
Form 965 (SCH–F)	Foreign Taxes Deemed Paid by Domestic Corporation.
Form 965 (SCH–G)	Foreign Taxes Deemed Paid by Domestic Corporation (U.S. shareholder's tax year ending in 2017).
Form 965 (SCH–H)	Disallowance of Foreign Tax Credit and Amounts Reported on Forms 1116 and 1118.
Form 966	Corporate Dissolution or Liquidation.
Form 970	Application to Use LIFO Inventory Method.
Form 972	Consent of Shareholder to Include Specific Amount in Gross Income.
Form 973	Corporation Claim for Deduction for Consent Dividends.
Form 976	Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust.
Form 982	Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment).
Form SS–4	Application for Employer Identification Number.
Form SS–4PR	Solicitud de Número de Identificación Patronal (EIN).
Form T (TIMBER)	Forest Activities Schedule.
Form W–8BEN	Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding.
Form W–8BEN(E)	Certificate of Entities Status of Beneficial Owner for United States Tax Withholding (Entities).
Form W–8ECI	Certificate of Foreign Person's Claim That Income is Effectively Connected With the Conduct of a Trade or Business in the United States.
Form W–8IMY	Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding.

[FR Doc. 2018–21846 Filed 10–5–18; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Information Collection for Treasury Decision 9142 (Final)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Treasury Decision 9142 (Final), Deemed IRAs In Qualified Retirement Plans.

DATES: Written comments should be received on or before December 10, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to Alissa Berry, at (901) 707–4988, at Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Alissa.A.Berry@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Deemed IRAs In Qualified Retirement Plans (REG–157302–02).

OMB Number: 1545–1841.

Treasury Decision Number: 9142.

Abstract: Section 408(q), added to the Internal Revenue Code by section 602 of the Economic Growth and Tax Relief Reconciliation Act of 2001, provides that separate accounts and annuities may be added to qualified employer plans and deemed to be individual retirement accounts and individual retirement annuities if certain requirements are met. Section 1.408(q)–1(f)(2) provides that these deemed IRAs must be held in a trust or annuity contract separate from the trust or annuity contract of the qualified employer plan. This collection of information is required to ensure that the separate requirements of qualified employer plans and IRAs are met.

Current Actions: There are no changes to the collection at this time.

Type of Review: Extension without change of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 800.

Estimated Time per Respondent: 50 hours.

Estimated Total Annual Burden Hours: 40,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 2, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–21769 Filed 10–5–18; 8:45 am]
BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 83 Tuesday,

No. 195 October 9, 2018

Part II

Department of Agriculture

Forest Service

Department of the Interior

Fish and Wildlife Service

36 CFR Part 242

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska—2018–19 and 2019–20 Subsistence Taking of Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2016–0049; FXFR13350700640–189–FF07J00000; FBMS#4500117985]

RIN 1018–BB38

Subsistence Management Regulations for Public Lands in Alaska—2018–19 and 2019–20 Subsistence Taking of Wildlife Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, and methods and means related to the taking of wildlife for subsistence uses in Alaska for the 2018–19 and 2019–20 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle. This rule also revises the general regulations on subsistence taking of fish and wildlife and customary and traditional use determinations for wildlife.

DATES: This rule is effective October 9, 2018.

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (*https://www.doi.gov/subsistence*).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas C. J. Doolittle, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov*. For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, U.S. Department of Agriculture (USDA), Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): title 36, ''Parks, Forests, and Public Property,'' and title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

The Board addresses customary and traditional use determinations during the applicable biennial cycle. Section ____.24 (customary and traditional use determinations) was originally published in the **Federal Register** on May 29, 1992 (57 FR 22940). The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. . . .'' Since 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO § ____.24

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.

MODIFICATIONS TO § ____.24—Continued

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
64 FR 1276	January 8, 1999	Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife.
65 FR 40730	June 30, 2000	Wildlife.
66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.
69 FR 5018	February 3, 2004	Fish/Shellfish.
69 FR 40174	July 1, 2004	Wildlife.
70 FR 13377	March 21, 2005	Fish/Shellfish.
70 FR 36268	June 22, 2005	Wildlife.
71 FR 15569	March 29, 2006	Fish/Shellfish.
71 FR 37642	June 30, 2006	Wildlife.
72 FR 12676	March 16, 2007	Fish/Shellfish.
72 FR 73426	December 27, 2007	Wildlife/Fish.
73 FR 35726	June 26, 2008	Wildlife.
74 FR 14049	March 30, 2009	Fish/Shellfish.
75 FR 37918	June 30, 2010	Wildlife.
76 FR 12564	March 8, 2011	Fish/Shellfish.
77 FR 35482	June 13, 2012	Wildlife.
79 FR 35232	June 19, 2014	Wildlife.
81 FR 52528	August 8, 2016	Wildlife.
83 FR 3079	January 23, 2018	Fish.

Current Rule

The Departments published a proposed rule on May 17, 2017 (82 FR 22621), to amend the wildlife sections of subparts C and D of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a comment period, which closed on June 16, 2017. The Departments advertised the proposed rule by mail, email, web page, social media, radio, and newspaper. During that period, the Councils met and, in addition to other Council business, generated proposals and received suggestions for proposals from the public. The Board received a total of 57 proposals for changes to subparts C and D. After the comment period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The proposals were also available online. The public then had an additional 45 days in which to comment on the proposals for changes to the regulations.

The 10 Regional Advisory Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board meeting that was held April 10–13, 2018. These final regulations reflect Board review and consideration of Regional Advisory Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Of the 57 valid proposals, 4 were withdrawn by the proponents, 26 were on the Board's non-consensus agenda, and 27 were on the consensus agenda. The consensus agenda is made up of proposals for which there is agreement among the affected Councils, a majority of the Interagency Staff Committee, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the non-consensus agenda. The Board votes en masse on the consensus agenda after deliberation and action on the non-consensus agenda. Of the proposals on the consensus agenda, the Board adopted 12, adopted 4 with modification, and rejected 11. Analysis and justification for the action taken on each proposal on the consensus agenda are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, Alaska 99503, or on the Federal Subsistence Management Programs website (*http://www.doi.gov/subsistence/index.cfm)* or at *http://www.regulations.gov.* Of the proposals on the non-consensus agenda, the Board adopted 3, adopted 14 with modification, rejected 6, took no action on 2, and deferred 1.

Summary of Non-Consensus Proposals Rejected or No Action Taken by the Board

The Board rejected, took no action, or deferred 9 non-consensus proposals. The rejected proposals were recommended for rejection by one or more of the Councils.

The Board rejected a proposal to increase the harvest quota for wolves in Unit 2. This proposal was found to violate recognized principles of wildlife conservation.

The Board deferred a proposal to establish a community harvest system for moose and caribou in Units 11 and 13 to allow time for staff and the proponent to develop a framework and report back to the Board at its next meeting.

The Board rejected a proposal to allow the use of snow machines to position animals (caribou, wolves, and wolverines) in Unit 17. This proposal was found to violate recognized principles of wildlife conservation and was not supported by substantial evidence.

The Board rejected a proposal to reduce the season for caribou in Unit 18. This proposal was determined to be detrimental to the satisfaction of subsistence needs.

The Board rejected a proposal to allow the sale of brown bear skulls and skulls with hides attached. This proposal was found not to be supported by substantial evidence. This action was contrary to one Council

recommendation, and another Council recommended the Board take no action.

The Board rejected a proposal to rescind a closure to sheep in Unit 25A. This proposal was determined to be detrimental to the satisfaction of subsistence needs.

The Board rejected a proposal to close public lands to non-federally qualified users to the take of caribou in Units 26A and 26B. This proposal was found not to be supported by substantial evidence. This action was contrary to one Council recommendation and supported by another Council recommendation.

The Board took no action on three proposals, Unit 23 moose, Unit 23 caribou, and Units 22, 23, and 26A caribou, based on its actions on similar proposals.

Summary of Non-Consensus Proposals Adopted by the Board

The Board adopted or adopted with modification 17 non-consensus proposals. Modifications were suggested by the affected Council(s), developed during the analysis process, suggested during Tribal and Alaska Native corporation consultations, or developed during the Board's public deliberations. All of the adopted proposals were recommended for adoption by at least one of the Councils.

The Board adopted a proposal with modification to modify bear baiting restrictions State wide.

The Board adopted a proposal with modification to reduce the harvest limit for deer for non-federally qualified users in Unit 2. The Board struck the portion of the proposal to shorten the season for federally qualified subsistence users.

The Board adopted with modification a proposal to establish a fall moose season in Unit 1C to begin in 2019.

The Board adopted a proposal with modification to align Federal and State regulations for caribou in Unit 9D.

The Board adopted a proposal with modification to revise the harvest limits for caribou in Units 9A, 9B, 9C, 17A, 17B, 17C, 19A, and 19B.

The Board adopted two proposals with modifications to rescind a closure to the take of caribou in Units 17A, 17C, and the Nushagak Peninsula and revised the Customary and Traditional Use determinations in Unit 17, remainder.

The Board adopted a proposal with modification to establish a winter season for moose in Unit 18.

The Board adopted a proposal with modification to reduce the harvest and possession limits for ptarmigan in Unit 18.

The Board adopted a proposal to extend the season for lynx in Unit 24A.

The Board adopted two proposals with modifications to revise closures to the take of moose in Units 22 and 22A.

The Board adopted a proposal with modification to revise the harvest limits, and establish a separate antlerless season for moose in Unit 23.

The Board adopted a proposal with modification to extend the season and increase the harvest limit for brown bear in Unit 23.

The Board adopted a proposal with modification to close public lands along a 10-mile corridor along the Noatak River, except to federally qualified subsistence hunters, for caribou in Unit 23.

The Board adopted a proposal to establish a registration hunt for caribou in Units 22, 23, and 26A.

The Board adopted a proposal to extend the season for moose in Unit 25B.

These final regulations reflect Board review and consideration of Regional Advisory Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 25 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	"Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the FEDERAL REGISTER.

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: **Federal Register** DOCUMENTS PERTAINING TO THE FINAL RULE—Continued

Federal Register citation	Date of publication	Category	Details
64 FR 1276	January 8, 1999	Final Rule	Amended the regulations to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified the Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule.	Because no adverse comments were received on the direct final rule (67 FR 30559), the direct final rule was adopted.
69 FR 60957	October 14, 2004	Final Rule	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of ''regulatory year'' from subpart A to subpart D of the regulations.
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997	August 24, 2006	Final Rule	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688	May 7, 2007	Final Rule	Revised nonrural determinations.
75 FR 63088	October 14, 2010	Final Rule	Amended the regulations for accepting and addressing special action requests and the role of the Regional Advisory Councils in the process.
76 FR 56109	September 12, 2011	Final Rule	Revised the composition of the Federal Subsistence Board by expanding the Board by two public members who possess personal knowledge of and direct experience with subsistence uses in rural Alaska.
77 FR 12477	March 1, 2012	Final Rule	Extended the compliance date for the final rule (72 FR 25688) that revised nonrural determinations until the Secretarial program review is complete or in 5 years, whichever comes first.
80 FR 68249	November 4, 2015	Final Rule	Revised the nonrural determination process and allowed the Federal Subsistence Board to define which communities and areas are nonrural.
83 FR 23813	May 23, 2018	Final Rule	Identifies submerged lands within the Tongass National Forest that did not pass to the State of Alaska at statehood and remain Federal public lands subject to the provisions of ANILCA.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly

restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires June 30, 2019. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On April 10, 2018, the Board provided federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Thomas C. J. Doolittle of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Clarence Summers, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, amend the table in § ____.24(a)(1) by revising the text for Units 1 through 5, 17, and 25 to read as follows:

§ ____.24 Customary and traditional use determinations.

(a) * * *

(1) * * *

Area	Species	Determination
Unit 1C	Black Bear	Residents of Units 1C, 1D, 3, Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
Unit 1A	Brown Bear	Residents of Unit 1A, excluding residents of Hyder.
Unit 1B	Brown Bear	Residents of Unit 1A, Petersburg, and Wrangell, excluding residents of Hyder.
Unit 1C	Brown Bear	Residents of Unit 1C, Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, excluding residents of Gustavus.
Unit 1D	Brown Bear	Residents of Unit 1D.
Unit 1	Deer	Residents of Units 1–5.
Unit 1B	Goat	Residents of Units 1B and 3.
Unit 1C	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Gustavus.
Unit 1B	Moose	Residents of Units 1, 2, 3, and 4.
Unit 1C	Moose	Residents of Units 1, 2, 3, 4, and 5.
Unit 1D	Moose	Residents of Unit 1D.
Unit 2	Deer	Residents of Units 1–5.
Unit 3	Deer	Residents of Units 1–5.
Unit 3, Wrangell and Mitkof Islands	Moose	Residents of Units 1B, 2, and 3.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
Unit 4	Deer	Residents of Units 1–5.
Unit 4	Goat	Residents of Sitka, Hoonah, Tenakee, Pelican, Funter Bay, Angoon, Port Alexander, and Elfin Cove.
Unit 5	Black Bear	Residents of Unit 5A.
Unit 5	Brown Bear	Residents of Yakutat.
Unit 5	Deer	Residents of Units 1–5.
Unit 5	Goat	Residents of Unit 5A.
Unit 5	Moose	Residents of Unit 5A.
Unit 5	Wolf	Residents of Unit 5A.
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Unit 17A and that portion of 17B draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9A and B, 17, Akiak, and Akiachak.
Unit 17, remainder	Black Bear	Residents of Units 9A and B, and 17.
Unit 17A, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast towards the northern point of Nuyakuk Lake to the Unit 17A boundary.	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, Kwethluk, and Platinum.
Unit 17B, beginning at the Unit 17B boundary, those portions north and west of a line running from the southern point of upper Togiak Lake, northeast to the northern point of Nuyakuk Lake, and northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Unit 17 and Kwethluk.
Unit 17A, remainder	Brown Bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17B, that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Unit 17, Akiak and Akiachak.
Unit 17B, remainder, and Unit 17C	Brown Bear	Residents of Unit 17.
Unit 17A, that portion west of the Izavieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Units 9B, 17, Eek, Goodnews Bay, Lime Village, Napakiak, Platinum, Quinhagak, Stony River, and Tuntutuliak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Units 9B, 17, Akiak, Akiachak, Lime Village, Stony River, and Tuluksak.

Area	Species	Determination
Units 17A and 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Units 9B, 17, Kwethluk, Lime Village, and Stony River.
Unit 17B, that portion of Togiak National Wildlife Refuge within Unit 17B.	Caribou	Residents of Units 9B, 17, Akiachak, Akiak, Bethel, Eek, Goodnews Bay, Lime Village, Napakiak, Platinum, Quinhagak, Stony River, Tuluksak, and Tuntutuliak.
Unit 17, remainder	Caribou	Residents of Units 9B, 9C, 9E 17, Lime Village, and Stony River.
Unit 17A, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and to the Unit 17A boundary to the northeast towards the northern point of Nuyakuk Lake.	Moose	Residents of Unit 17, Goodnews Bay, Kwethluk, and Platinum.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17A, remainder	Moose	Residents of Unit 17, Goodnews Bay and Platinum.
Unit 17B, that portion within the Togiak National Wildlife Refuge.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Baym, Levelock, Nondalton, and Platinum.
Unit 17B, remainder and Unit 17C	Moose	Residents of Unit 17, Nondalton, Levelock, Goodnews Bay, and Platinum.
Unit 17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 17	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
* * *	*	* * *
Unit 25D	Black Bear	Residents of Unit 25D.
Unit 25D	Brown Bear	Residents of Unit 25D.
Unit 25, remainder	Brown Bear	Residents of Unit 25 and Eagle.
Unit 25A	Caribou	Residents of Units 24A and 25.
Unit 25B and Unit 25C	Caribou	Residents of Units 12 (north of Wrangell-St. Elias National Preserve), 20D, 20E, 20F, and 25.
Unit 25D	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 25A	Moose	Residents of Units 25A and 25D.
Unit 25B and Unit 25C	Moose	Residents of Units 20D, 20E, 25B, 25C, 25D, Tok and Livengood.
Unit 25D, west	Moose	Residents of Unit 25D West.
Unit 25D, remainder	Moose	Residents of remainder of Unit 25.
Unit 25A	Sheep	Residents of Arctic Village, Chalkyitsik, Fort Yukon, Kaktovik, and Venetie.
Unit 25B and Unit 25C	Sheep	Residents of Units 20E, 25B, 25C, and 25D.
Unit 25D	Wolf	Residents of Unit 25D.
Unit 25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
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Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. In subpart D of 36 CFR part 242 and 50 CFR part 100, amend § ____.25(a) by adding a definition for ''Scent lure'' in alphabetical order to read as follows:

§ ____.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

(a) * * *

Scent lure (in reference to bear baiting) means any biodegradable material to which biodegradable scent is applied or infused.

* * * * *

■ 4. In subpart D of 36 CFR part 242 and 50 CFR part 100, § ____.26 is revised to read as follows:

§ ____.26 Subsistence taking of wildlife.

(a) *General taking prohibitions.* You may take wildlife for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(b) *Prohibited methods and means.* Except for special provisions found at paragraphs (n)(1) through (26) of this section, the following methods and means of taking wildlife for subsistence uses are prohibited:

(1) Shooting from, on, or across a highway.

(2) Using any poison.

(3) Using a helicopter in any manner, including transportation of individuals, equipment, or wildlife; however, this prohibition does not apply to transportation of an individual, gear, or wildlife during an emergency rescue operation in a life-threatening situation.

(4) Taking wildlife from a motorized land or air vehicle when that vehicle is in motion, or from a motor-driven boat when the boat's progress from the motor's power has not ceased.

(5) Using a motorized vehicle to drive, herd, or molest wildlife.

(6) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge.

(7) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle, or pistol using center-firing cartridges for

the taking of ungulates, bear, wolves, or wolverine, except that—

(i) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine; and

(ii) Only a muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, elk, moose, musk ox, and mountain goat.

(8) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over 9 inches, or conibear style trap with a jaw spread over 11 inches.

(9) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and individuals in possession of a valid trapping license may use snares to take furbearers.

(10) Using a trap to take ungulates or bear.

(11) Using hooks to physically snag, impale, or otherwise take wildlife; however, hooks may be used as a trap drag.

(12) Using a crossbow to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only.

(13) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting an inch-wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least 1 ounce (437.5 grains).

(14) Using bait for taking ungulates, bear, wolf, or wolverine; except you may use bait to take wolves and wolverine with a trapping license, and you may use bait to take black bears and brown bears with a hunting license as authorized in Unit-specific regulations at paragraphs (n)(1) through (26) of this section. Baiting of black bears and brown bears is subject to the following restrictions:

(i) Before establishing a bear bait station, you must register the site with ADF&G.

(ii) When using bait, you must clearly mark the site with a sign reading ''black bear bait station'' that also displays your hunting license number and ADF&G-assigned number.

(iii) You may use only biodegradable materials for bait; if fish or wildlife is used as bait, only the head, bones, viscera, or skin of legally harvested fish and wildlife, the skinned carcasses of furbearers, and unclassified wildlife may be used, except that in Units 7 and 15, fish or fish parts may not be used as bait. Scent lures may be used at registered bait stations.

(iv) You may not use bait within ¼ mile of a publicly maintained road or trail.

(v) You may not use bait within 1 mile of a house or other permanent dwelling, or within 1 mile of a developed campground or developed recreational facility.

(vi) When using bait, you must remove litter and equipment from the bait station site when done hunting.

(vii) You may not give or receive payment for the use of a bait station, including barter or exchange of goods.

(viii) You may not have more than two bait stations with bait present at any one time.

(15) Taking swimming ungulates, bears, wolves, or wolverine.

(16) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3:00 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft). This restriction does not apply to subsistence taking of deer (except on NPS lands) and of caribou on the Nushagak Peninsula (a portion of Units 17A and 17C) during Jan. 1–Mar. 31, provided the hunter is 300 feet from the airplane; moreover, this restriction does not apply to subsistence setting of snares or traps, or the removal of furbearers from traps or snares.

(17) Taking a bear cub or a sow accompanied by cub(s).

(c) *Defense of life and property.* Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(d) *Trapping furbearing animals.* The following methods and means of trapping furbearers for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at paragraph (b) of this section:

(1) Disturbing or destroying a den, except that you may disturb a muskrat pushup or feeding house in the course of trapping;

(2) Disturbing or destroying any beaver house;

(3) Taking beaver by any means other than a steel trap or snare, except that you may use firearms in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(4) Taking otter with a steel trap having a jaw spread of less than 5⅞ inches during any closed mink and marten season in the same Unit;

(5) Using a net or fish trap (except a blackfish or fyke trap); and

(6) Taking or assisting in the taking of furbearers by firearm before 3:00 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(e) *Possession and transportation of wildlife.* (1) Except as specified in paragraph (e)(2) or (f)(1) of this section, or as otherwise provided, you may not take a species of wildlife in any Unit, or portion of a Unit, if your total take of that species already obtained anywhere in the State under Federal and State regulations equals or exceeds the harvest limit in that Unit.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § ____.10(d)(5)(iii) or as otherwise provided for by this part, an animal taken as part of a community harvest limit counts toward every community member's harvest limit for that species taken under Federal or State of Alaska regulations.

(f) *Harvest limits.* (1) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that if you have taken a harvest limit for a particular species under a trapping season, you may take additional animals under the harvest limit specified for a hunting season or vice versa.

(2) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of ''one brown/grizzly bear per year'' counts against a ''one brown/grizzly bear every four regulatory years'' harvest limit in other Units. You may not take more than one brown/grizzly bear in a regulatory year.

(g) *Evidence of sex and identity.* (1) If subsistence take of Dall sheep is restricted to a ram, you may not possess or transport a harvested sheep unless both horns accompany the animal.

(2) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, you may not possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal, except that in Units 1–5 antlers are also considered proof of sex for deer if the antlers are naturally attached to an entire carcass, with or without the viscera; and except in Units 11, 13, 19, 21, and 24, where you may possess

either sufficient portions of the external sex organs (still attached to a portion of the carcass) or the head (with or without antlers attached; however, the antler stumps must remain attached) to indicate the sex of the harvested moose. However, this paragraph (g)(2) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose harvest limit requires an antlered bull, an antler size, or configuration restriction, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph (g)(3) does not apply to a moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(h) *Removing harvest from the field.* You must leave all edible meat on the bones of the front quarters and hind quarters of caribou and moose harvested in Units 9, 17, 18, and 19B prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of moose harvested in Unit 21 prior to October 1 until you remove the meat from the field or process it for human consumption. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 24 prior to October 1 until you remove the meat from the field or process it for human consumption. Meat of the front quarters, hind quarters, or ribs from a harvested moose or caribou may be processed for human consumption and consumed in the field; however, meat may not be removed from the bones for purposes of transport out of the field. You must leave all edible meat on the bones of the front quarters, hind quarters, and ribs of caribou and moose harvested in Unit 25 until you remove the meat from the field or process it for human consumption.

(i) *Returning of tags, marks, or collars.* If you take an animal that has been marked or tagged for scientific studies, you must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker when and where the animal was taken. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(j) *Sealing of bear skins and skulls.* (1) Sealing requirements for bear apply to brown bears taken in all Units, except as specified in this paragraph (j), and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not possess or transport from Alaska the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, Units 21D, 22, 23, 24, and 26A need not be sealed unless removed from the area.

(3) You must keep a bear skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision does not apply to brown bears taken within Units 5, 9B, 9E, 17, 18, 19A and 19B downstream of and including the Aniak River drainage, Units 21D, 22, 23, 24, and 26A and which are not removed from the Unit.

(i) In areas where sealing is required by Federal regulations, you may not possess or transport the hide of a bear that does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in Units 9B, 17, 18, and 19A and 19B downstream of and including the Aniak River drainage is removed from the area, you must first have it sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative must remove and retain the skin of the skull and front claws of the bear.

(iii) If you remove the skin or skull of a bear taken in Units 21D, 22, 23, 24, and 26A from the area or present it for commercial tanning within the area, you must first have it sealed by an ADF&G representative in Barrow, Galena, Nome, or Kotzebue; at the time of sealing, the ADF&G representative must remove and retain the skin of the skull and front claws of the bear.

(iv) If you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it sealed by an ADF&G representative in Yakutat.

(v) If you remove the skin or skull of a bear taken in Unit 9E from Unit 9, you must first have it sealed by an authorized sealing representative. At the time of sealing, the representative must remove and retain the skin of the skull and front claws of the bear.

(4) You may not falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(k) *Sealing of beaver, lynx, marten, otter, wolf, and wolverine.* You may not possess or transport from Alaska the untanned skin of a marten taken in Unit 1–5, 7, 13E, or 14–16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative in accordance with State or Federal regulations.

(1) In Unit 18, you must obtain an ADF&G seal for beaver skins only if they are to be sold or commercially tanned.

(2) In Unit 2, you must seal any wolf taken on or before the 14th day after the date of taking.

(l) *Sealing form.* If you take a species listed in paragraph (k) of this section but are unable to present the skin in person, you must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in paragraph (k) of this section.

(m) *Traditional religious ceremonies.* You may take wildlife, outside of established season or harvest limits, for food in traditional religious ceremonies, which are part of a funerary or mortuary cycle, including memorial potlatches, under the following provisions:

(1) The harvest does not violate recognized principles of wildlife conservation and uses the methods and means allowable for the particular species published in the applicable Federal regulations. The appropriate Federal land manager will establish the number, species, sex, or location of harvest, if necessary, for conservation purposes. Other regulations relating to ceremonial harvest may be found in the Unit-specific regulations in paragraph (n) of this section.

(2) No permit or harvest ticket is required for harvesting under this section; however, the harvester must be a federally qualified subsistence user with customary and traditional use in the area where the harvesting will occur.

(3) In Units 1–26 (except for Koyukon/Gwich'in potlatch ceremonies in Unit 20F, 21, 24, or 25):

(i) A tribal chief, village or tribal council president, or the chief's or president's designee for the village in

which the religious/cultural ceremony will be held, or a federally qualified subsistence user outside of a village or tribal-organized ceremony, must notify the nearest Federal land manager that a wildlife harvest will take place. The notification must include the species, harvest location, and number of animals expected to be taken.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president or designee, or other federally qualified subsistence user must create a list of the successful hunters and maintain these records, including the name of the decedent for whom the ceremony will be held. If requested, this information must be available to an authorized representative of the Federal land manager.

(iii) The tribal chief, village or tribal council president or designee, or other federally qualified subsistence user outside of the village in which the religious/cultural ceremony will be held must report to the Federal land manager the harvest location, species, sex, and number of animals taken as soon as practicable, but not more than 15 days after the wildlife is taken.

(4) In Units 20F, 21, 24, and 25 (for Koyukon/Gwich'in potlatch ceremonies only):

(i) Taking wildlife outside of established season and harvest limits is authorized if it is for food for the traditional Koyukon/Gwich'in Potlatch Funerary or Mortuary ceremony and if it is consistent with conservation of healthy populations.

(ii) Immediately after the wildlife is taken, the tribal chief, village or tribal council president, or the chief's or president's designee for the village in which the religious ceremony will be held must create a list of the successful hunters and maintain these records. The list must be made available, after the harvest is completed, to a Federal land manager upon request.

(iii) As soon as practical, but not more than 15 days after the harvest, the tribal chief, village council president, or designee must notify the Federal land manager about the harvest location, species, sex, and number of animals taken.

(n) *Unit regulations.* You may take for subsistence unclassified wildlife, all squirrel species and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (n)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1A consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound.

(ii) Unit 1B consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage.

(iii) Unit 1C consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay.

(iv) Unit 1D consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay.

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1A—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1B—the Anan Creek drainage within 1 mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a 1-mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of bear; and

(D) Unit 1C:

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area; and

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier.

(vi) You may not trap furbearers for subsistence uses in Unit 1C, Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area; and

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail.

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1A, 1B, and 1D between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Brown Bear: 1 bear every four regulatory years by State registration permit only	Sep. 15–Dec. 31. Mar. 15–May 31.

Harvest limits	Open season
Deer:	
Unit 1A—4 antlered deer	Aug. 1–Dec. 31.
Unit 1B—2 antlered deer	Aug. 1–Dec. 31.
Unit 1C—4 deer; however, female deer may be taken only from Sep. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1A—Revillagigedo Island only	No open season.
Unit 1B—that portion north of LeConte Bay—1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1A and Unit 1B—that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Anna Inlet.	No open season.
Unit 1A and Unit 1B, remainder—2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1C—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River, and all drainages of the Chilkat Range south of the Endicott River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1C—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1C, remainder—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1D—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sep. 15–Nov. 30.
Unit 1D— that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1D, remainder—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1A—1 antlered bull by Federal registration permit	Sep. 5–Oct. 15.
Unit 1B—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sep. 15–Oct. 15.
Unit 1C—that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sep. 15–Oct. 15.
Unit 1C, remainder, excluding drainages of Berners Bay—1 bull by State registration permit only	Sep. 15–Oct. 15.
Unit 1C—Berners Bay—1 bull by drawing permit	Sep.15–Oct. 15 (will be announced starting in 2019).
Only one moose permit may be issued per household. A household receiving a State permit for Berners Bay drainages moose may not receive a Federal permit. The annual harvest quota will be announced by the USDA Forest Service, Juneau office, in consultation with ADF&G. The Federal harvest allocation will be 25% (rounded up to the next whole number) of bull moose permits.	
Unit 1D	No open season.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf:	
Units 1A and 1B, south of Bradfield Canal and the east fork of the Bradfield River—5 wolves	Aug. 1–May 31.
Units 1B remainder, 1C, and 1D—5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: Unit 1—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(2) *Unit 2.* Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Deer:	
5 deer; however, no more than one may be a female deer. Female deer may be taken only during the period Oct. 15–Jan. 31. Harvest ticket number five must be used when recording the harvest of a female deer, but may be used for recording the harvest of a male deer. Harvest tickets must be used in order except when recording a female deer on tag number five.	July 24–Jan. 31.
The Federal public lands on Prince of Wales Island, excluding the southeastern portion (lands south of the West Arm of Cholmondeley Sound draining into Cholmondeley Sound or draining eastward into Clarence Strait), are closed to hunting of deer from Aug. 1 to Aug. 15, except by federally qualified subsistence users hunting under these regulations.	
Non-federally qualified users may only harvest up to 2 male deer on Federal public lands in Unit 2.	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.	Sep. 1–Mar. 31.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1 –Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit. Federal hunting and trapping season may be closed when the combined Federal-State harvest quota is reached. Any wolf taken in Unit 2 must be sealed within 14 days of harvest.	Nov. 15–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 1.

(3) *Unit 3*. (i) Unit 3 consists of all islands west of Unit 1B, north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevaroff, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island; and

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth-mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers 1 mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Deer:	
Unit 3–Mitkof, Woewodski, and Butterworth Islands—1 antlered deer	Oct. 15–31.
Unit 3–Kupreanof Island, that portion east of the Portage Bay–Duncan Canal Portage—1 antlered deer	Oct. 15–31.
Unit 3, remainder—2 antlered deer	Aug. 1–Nov. 30.
	Dec. 1–31, season to be announced.
Moose: 1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.	Sep. 15–Oct. 15.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–May 31.

Harvest limits	Open season
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession.	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession.	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3–Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3–except Mitkof Island—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten:	
No limit (except on Kuiu Island)	Dec. 1–Feb. 15.
Kuiu Island portion of Unit 3. No limit	Dec. 1–31.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(4) *Unit 4.* (i) Unit 4 consists of all islands south and west of Unit 1C and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take brown bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands;

(B) You may not take brown bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock); and

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwestern point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(B) Five Federal registration permits will be issued by the Sitka or Hoonah District Ranger for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every four regulatory years limit.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Brown Bear:	
Unit 4–Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N lat., 136° 21′ W long.) to Rodgers Point (57° 35′ N lat., 135° 33′ W long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57° 34′ N lat., 135° 25′ W long.) to the entrance of Gut Bay (56° 44′ N lat. 134° 38′ W long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sep. 15–Dec. 31. Mar. 15–May 31.
Unit 4, remainder—1 bear every 4 regulatory years by State registration permit only	Sep. 15–Dec. 31. Mar. 15–May 20.
Deer: 6 deer; however, female deer may be taken only from Sep. 15–Jan. 31	Aug. 1–Jan. 31.
Goat: 1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–May 15.

Harvest limits	Open season
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(5) *Unit 5*. (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5A consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays; In Unit 5A, Nunatak Bench is defined as that area east of the Hubbard Glacier, north of Nunatak fiord, and north and east of the East Nunatak Glacier to the Canadian Border.

(B) Unit 5B consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag if you have obtained a Federal registration permit prior to hunting.

(D) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(E) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears, no more than one may be a blue or glacier bear.	Sep. 1–June 30.
Brown Bear: 1 bear by Federal registration permit only	Sep. 1–May 31.
Deer:	
Unit 5A—1 buck.	Nov. 1–Nov. 30.
Unit 5B	No open season.
Goat:	
Unit 5A—that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord.	No open season.
Unit 5A, remainder—1 goat by Federal registration permit. The harvest quota will be announced prior to the season. A minimum of four goats in the harvest quota will be reserved for federally qualified subsistence users.	Aug. 1–Jan. 31.
Unit 5B—1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5A–Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15.
Unit 5A–except Nunatak Bench, west of the Dangerous River—1 bull by joint State/Federal registration permit only. From Oct. 8–21, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Oct. 8–Nov. 15.
Unit 5A, except Nunatak Bench, east of the Dangerous River—1 bull by joint State/Federal registration permit only. From Sep. 16–30, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Sep. 16–Nov. 15.
Unit 5B—1 bull by State registration permit only. The season will be closed when 25 bulls have been taken from the entirety of Unit 5B.	Sep. 1–Dec. 15.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce and Ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Nov. 10–May 15.
Coyote: No limit	Nov. 10–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Nov. 10–Feb. 15.
Mink and Weasel: No limit	Nov. 10–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Nov. 10–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.

Harvest limits	Open season
Wolverine: No limit	Nov. 10–Mar. 1.

(6) *Unit 6.* (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6A consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6B consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6C consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet; and

(D) Unit 6D consists of the remainder of Unit 6.

(ii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15. In addition, you may use bait in Unit 6D between June 16 and June 30. The harvest quota in Unit 6D is 20 bears taken with bait between June 16 and June 30.

(B) You may take coyotes in Units 6B and 6C with the aid of artificial lights.

(C) One permit will be issued by the Cordova District Ranger to the Native Village of Eyak to take one moose from Federal lands in Unit 6B or C for their annual Memorial/Sobriety Day potlatch.

(D) A federally qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another federally qualified subsistence user to take any moose, deer, black bear, and beaver on his or her behalf in Unit 6, and goat in Unit 6D, unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but may have no more than one harvest limit in his or her possession at any one time.

(E) A hunter younger than 10 years old at the start of the hunt may not be issued a Federal subsistence permit to harvest black bear, deer, goat, moose, wolf, and wolverine.

(F) A hunter younger than 10 years old may harvest black bear, deer, goat, moose, wolf, and wolverine under the direct, immediate supervision of a licensed adult, at least 18 years old. The animal taken is counted against the adult's harvest limit. The adult is responsible for ensuring that all legal requirements are met.

(G) Up to five permits will be issued by the Cordova District Ranger to the Native Village of Chenega annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Old Chenega Memorial and other traditional memorial potlatch ceremonies. Permits will have effective dates of July 1–June 30.

(H) Up to five permits will be issued by the Cordova District Ranger to the Tatitlek IRA Council annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Cultural Heritage Week. Permits will have effective dates of July 1–June 30.

Harvest limits	Open season
Hunting	
Black Bear: 1 bear. In Unit 6D a State registration permit is required	Sep. 1–June 30.
Deer:	
5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31	Aug. 1–Dec. 31.
Unit 6D—1 buck	Jan. 1–31.
Goats:	
Unit 6A and B—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6C	No open season.
Unit 6D (subareas RG242, RG243, RG244, RG245, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only. In each of the Unit 6D subareas, goat seasons will be closed by the Cordova District Ranger when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244 and RG245 combined—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Feb. 28.
Moose:	
Unit 6C—1 antlerless moose by Federal drawing permit only	Sep. 1–Oct. 31.
Permits for the portion of the antlerless moose quota not harvested in the Sep. 1–Oct. 31 hunt may be available for redistribution for a Nov. 1–Dec. 31 hunt..	
Unit 6C—1 bull by Federal drawing permit only	Sep. 1–Dec. 31.
In Unit 6C, only one moose permit may be issued per household. A household receiving a State permit for Unit 6C moose may not receive a Federal permit. The annual harvest quota will be announced by the U.S. Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the antlerless moose permits and 75% of the bull permits. Federal public lands are closed to the harvest of moose except by federally qualified users with a Federal permit for Unit 6C moose, Nov. 1–Dec. 31.	
Unit 6, remainder	No open season.
Beaver: 1 beaver per day, 1 in possession.	May 1–Oct. 31.
Coyote:	
Unit 6A and D—2 coyotes	Sep. 1–Apr. 30.
Unit 6B and 6C—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	No open season.
Hare (Snowshoe): No limit	July 1–June 30.

Harvest limits	Open season
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6C–south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Units 6A, 6B, 6C remainder, and 6D—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park.

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15, except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Caribou:	
Unit 7–north of the Sterling Highway and west of the Seward Highway—1 caribou by Federal registration permit only. The Seward District Ranger will close the Federal season when 5 caribou are harvested by Federal registration permit.	Aug. 10–Dec. 31.
Unit 7, remainder	No open season.
Moose:	
Unit 7–that portion draining into Kings Bay—Federal public lands are closed to the taking of moose except by residents of Chenega Bay and Tatitlek.	No open season.
Unit 7, remainder—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sep. 20.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 10.
Coyote: No limit	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	No open season.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 7–that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce): 10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed):	No open season.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: 20 beaver per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Jan. 1–31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: No limit	Nov. 10–Feb. 28.

Harvest limits	Open season
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) Unit-specific regulations: If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10–Apr. 30.

(ii) [Reserved]

Harvest limits	Open season
Hunting	
Brown Bear: 1 bear by Federal registration permit only. Up to 2 permits may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 3 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions. Permits will be issued by the Kodiak Refuge Manager.	Dec. 1–Dec. 15. Apr. 1–May 15.
Deer: Unit 8–all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—3 deer; however, antlerless deer may be taken only from Oct. 1–Jan. 31.	Aug. 1–Jan. 31.
Elk: Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.	Sep. 15–Nov. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: 30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Jan. 31.

(9) *Unit 9.* (i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9A consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve.

(B) Unit 9B consists of the Kvichak River drainage except those lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage.

(C) Unit 9C consists of the Alagnak (Branch) River drainage, the Naknek River drainage, lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage, and all land and water within Katmai National Park and Preserve.

(D) Unit 9D consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands.

(E) Unit 9E consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park; and

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1–Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9C within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9B from April 1–May 31 and in the remainder of Unit 9 from April 1–30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in Unit 9B, except that portion within the Lake Clark National Park and Preserve, if you have obtained a State registration permit prior to hunting.

(C) In Unit 9B, Lake Clark National Park and Preserve, residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and that portion of the park resident zone in Unit 9B and 13.440 permit holders may hunt brown bear by Federal registration permit in lieu of a resident tag. The season will be closed when 4 females or 10 bears have been taken, whichever occurs first. The permits will be issued and closure announcements made by the Superintendent Lake Clark National Park and Preserve.

(D) Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9B for ceremonial purposes, under the terms of a Federal registration permit from July 1–June 30. Permits will be issued to individuals only at the request of a local organization. This 10-moose limit is not cumulative with that permitted for potlatches by the State.

(E) For Units 9C and 9E only, a federally qualified subsistence user (recipient) of Units 9C and 9E may designate another federally qualified subsistence user of Units 9C and 9E to take bull caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time.

(F) For Unit 9D, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(G) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1–December 31 or May 10–25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

(H) You may hunt brown bear in Unit 9E with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 9B–Lake Clark National Park and Preserve—Rural residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, residents of that portion of the park resident zone in Unit 9B; and 13.440 permit holders—1 bear by Federal registration permit only.	July 1–June 30.
The season will be closed by the Lake Clark National Park and Preserve Superintendent when 4 females or 10 bear have been taken, whichever occurs first.	
Unit 9B, remainder—1 bear by State registration permit only	Sep. 1–May 31.
Unit 9C—1 bear by Federal registration permit only	Oct. 1–May 31.
The season will be closed by the Katmai National Park and Preserve Superintendent in consultation with BLM and FWS land managers and ADF&G, when 6 females or 10 bear have been taken, whichever occurs first.	
Unit 9E—1 bear by Federal registration permit	Sep. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9A—2 caribou by State registration permit	Aug. 1–Mar. 15.
Unit 9B—2 caribou by State registration permit	Aug. 1–Mar. 31.
Unit 9C, that portion within the Alagnak River drainage—2 caribou by State registration permit	Aug. 1–Mar. 15.
Unit 9C, that portion draining into the Naknek River from the north, and Graveyard Creek and Coffee Creek—2 caribou by State registration permit. Public lands are closed to the taking of caribou except by residents of Unit 9C and Egegik.	Aug. 1–Mar. 15.
Unit 9C, remainder—1 bull by Federal registration permit or State permit. Federal public lands are closed to the taking of caribou except by residents of Unit 9C and Egegik.	May be announced.
Unit 9D—1–4 caribou by Federal registration permit only	Aug. 1–Sep. 30. Nov. 15–Mar. 31.
Unit 9E—1 bull by Federal registration permit or State permit. Federal public lands are closed to the taking of caribou except by residents of Unit 9E, Nelson Lagoon, and Sand Point.	May be announced.
Sheep:	
Unit 9B, that portion within Lake Clark National Park and Preserve—1 ram with ¾ curl or larger horn by Federal registration permit only. By announcement of the Lake Clark National Park and Preserve Superintendent, the summer/fall season will be closed when up to 5 sheep are taken and the winter season will be closed when up to 2 sheep are taken.	July 15–Oct. 15. Jan. 1–Apr. 1.
Unit 9B, remainder—1 ram with ⅞ curl or larger horn by Federal registration permit only	Aug. 10–Oct. 10.
Unit 9, remainder—1 ram with ⅞ curl or larger horn	Aug. 10–Sep. 20.
Moose:	
Unit 9A—1 bull by State registration permit	Sep. 1–15.
Unit 9B—1 bull by State registration permit	Sep. 1–20. Dec. 1–Jan. 15.
Unit 9C–that portion draining into the Naknek River from the north—1 bull by State registration permit	Sep. 1–20. Dec. 1–31.
Unit 9C–that portion draining into the Naknek River from the south—1 bull by State registration permit. Public lands are closed during December for the hunting of moose, except by federally qualified subsistence users hunting under these regulations.	Aug. 20–Sep. 20. Dec. 1–31.
Unit 9C, remainder—1 bull by State registration permit	Sep. 1–20. Dec. 15–Jan. 15.
Unit 9D—1 bull by Federal registration permit. Federal public lands will be closed by announcement of the Izembek Refuge Manager to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9E—1 bull by State registration permit; however, only antlered bulls may be taken Dec. 1–Jan. 31	Sep. 1–25. Dec. 1–Jan. 31.
Beaver: Unit 9B and 9E—2 beaver per day	Apr. 15–May 31.
Coyote: 2 coyotes	Sep. 1–Apr. 30.

Harvest limits	Open season
Fox, Arctic (Blue and White): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beaver per day; only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White): No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10—Unimak Island only, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take caribou on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1–December 31 or May 10–25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or 10 (Unimak Island) only.

Harvest limits	Open season
Hunting	
Caribou:	
Unit 10—Unimak Island only	No open season.
Unit 10, remainder—No limit	July 1–June 30.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit.	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sep. 1–Feb. 15.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sep. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black and brown bear between April 15 and June 15.

(B) One moose without calf may be taken from June 20–July 31 in the Wrangell–St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta

Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell–St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear	Aug. 10–June 15.
Caribou:	No open season.
Sheep:	
1 ram	Aug. 10–Sep. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older. Ewes accompanied by lambs or lambs may not be taken..	Aug. 1–Oct. 20.
Goat:	
Unit 11–that portion within the Wrangell–St. Elias National Park and Preserve that is bounded by the Chitina and Nizina rivers on the south, the Kennicott River and glacier on the southeast, and the Root Glacier on the east—1 goat by Federal registration permit only.	Aug. 25–Dec. 31.
Unit 11–the remainder of the Wrangell–St. Elias National Park and Preserve—1 goat by Federal registration permit only.	Aug. 10–Dec. 31.
Unit 11–that portion outside of the Wrangell-St. Elias National Park and Preserve	No open season.
Federal public lands will be closed by announcement of the Superintendent, Wrangell–St. Elias National Park and Preserve to the harvest of goats when a total of 45 goats has been harvested between Federal and State hunts.	
Moose:	
Unit 11–that portion draining into the east bank of the Copper River upstream from and including the Slana River drainage—1 antlered bull by joint Federal/State registration permit.	Aug. 20–Sep. 20.
Unit 11–that portion south and east of a line running along the north bank of the Chitina River, the north and west banks of the Nazina River, and the west bank of West Fork of the Nazina River, continuing along the western edge of the West Fork Glacier to the summit of Regal Mountain—1 bull by Federal registration permit. However, during the period Aug. 20–Sep. 20, only an antlered bull may be taken.	Aug. 20–Sep. 20. Nov. 20–Jan. 20.
Unit 11, remainder—1 antlered bull by Federal registration permit only.	Aug. 20–Sep. 20.
Muskrat: No limit	Sep. 20–June 10.
Beaver: 1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Feb. 28.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Sep. 25–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black and brown bear between April 15 and June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap, or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 12 during April and October.

(C) One moose without calf may be taken from June 20–July 31 in the Wrangell–St. Elias National Park and Preserve in Unit 11 or 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell–St. Elias National Park and Preserve office.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears.	July 1–June 30.
Brown Bear: 1 bear.	Aug. 10–June 30.
Caribou:	
Unit 12–that portion within the Wrangell-St. Elias National Park that lies west of the Nabesna River and the Nabesna Glacier. All hunting of caribou is prohibited on Federal public lands.	No open season.
Unit 12–that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 bull by Federal registration permit only.	Aug. 10–Sep. 30.
Federal public lands are closed to the harvest of caribou except by federally qualified subsistence users hunting under these regulations.	
Unit 12, remainder—1 bull	Sep. 1–20.
Unit 12, remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30 and sex of animal to be taken will be announced by Tetlin National Wildlife Refuge Manager in consultation with Wrangell-St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	Winter season to be announced.
Sheep:	
Unit 12—1 ram with full curl or larger horn	Aug. 10–Sep. 20.
Unit 12–that portion within Wrangell–St. Elias National Park and Preserve—1 ram with full curl horn or larger by Federal registration permit only by persons 60 years of age or older.	Aug. 1–Oct. 20.
Moose:	
Unit 12–that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake—1 antlered bull by Federal registration permit.	Aug. 24–Sep. 20. Nov. 1–Feb. 28.
Unit 12–that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Aug. 24–Sep. 30.
Unit 12, remainder—1 antlered bull by joint Federal/State registration permit only	Aug. 20–Sep. 20.
Beaver: Unit 12–Wrangell–St. Elias National Park and Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sep. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Mar. 15.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit. Hide or meat must be salvaged. Traps, snares, bow and arrow, or firearms may be used.	Sep. 15–Jun 10.
Coyote: No limit	Oct. 15–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Mar. 15.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Sep. 20–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages

north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeastern corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13A consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the south bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning.

(B) Unit 13B consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning.

(C) Unit 13C consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier.

(D) Unit 13D consists of that portion of Unit 13 south of Unit 13A.

(E) Unit 13E consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting from Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River.

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Middle Fork trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13B bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Middle Fork Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning.

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26–September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13D bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) Upon written request by the Camp Director to the Glennallen Field Office, 2 caribou, sex to be determined by the Glennallen Field Office Manager of the BLM, may be taken from Aug. 10–Sep. 30 or Oct. 21–Mar. 31 by Federal registration permit for the Hudson Lake Residential Treatment Camp. Additionally, 1 bull moose may be taken Aug. 1–Sep. 20. The animals may be taken by any federally qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.

Harvest limits	Open season
Brown Bear: 1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:	
Units 13A and 13B—2 caribou by Federal registration permit only. The sex of animals that may be taken will be announced by the Glennallen Field Office Manager of the Bureau of Land Management in consultation with the Alaska Department of Fish and Game area biologist and Chairs of the Eastern Interior Regional Advisory Council and the Southcentral Regional Advisory Council.	Aug. 1–Sep. 30. Oct. 21–Mar. 31.
Unit 13, remainder—2 bulls by Federal registration permit only	Aug. 1–Sep. 30. Oct. 21–Mar. 31.
Sheep: Unit 13, excluding Unit 13D and the Tok Management Area and Delta Controlled Use Area—1 ram with ⅞ curl or larger horn.	Aug. 10–Sep. 20.
Moose:	
Unit 13E—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household.	Aug. 1–Sep. 20.
Unit 13, remainder—1 antlered bull moose by Federal registration permit only	Aug. 1–Sep. 20.
Beaver: 1 beaver per day, 1 in possession	June 15–Sep. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Feb. 28.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Sep. 25–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: Unit 13—No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Sep. 25–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Oct. 15–Apr. 30.
Wolverine: No limit	Nov. 10–Feb. 28.

(14) *Unit 14.* (i) Unit 14 consists of drainages into the northern side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the northern side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the western side drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River:

(A) Unit 14A consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the northern side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14B consists of that portion of Unit 14 north of Unit 14A; and

(C) Unit 14C consists of that portion of Unit 14 south of Unit 14A.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservations; and

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
Hunting	
Black Bear: Unit 14C—1 bear	July 1–June 30.
Beaver: Unit 14C—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote: Unit 14C—2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): Unit 14C—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe): Unit 14C—5 hares per day	Sep. 8–Apr. 30.

Harvest limits	Open season
Lynx: Unit 14C—2 lynx	Dec. 1–Jan. 31.
Wolf: Unit 14C—5 wolves	Aug. 10–Apr. 30.
Wolverine: Unit 14C—1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed): Unit 14C—5 per day, 10 in possession	Sep. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): Unit 14C—10 per day, 20 in possession	Sep. 8–Mar. 31.
Trapping	
Beaver: Unit 14C—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote: Unit 14C—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): Unit 14C—1 fox	Nov. 10–Feb. 28.
Lynx: Unit 14C—No limit	Dec. 15–Jan. 31.
Marten: Unit 14C—No limit	Nov. 10–Jan. 31.
Mink and Weasel: Unit 14C—No limit	Nov. 10–Jan. 31.
Muskrat: Unit 14C—No limit	Nov. 10–May 15.
Otter: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolf: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolverine: Unit 14C—2 wolverines	Nov. 10–Jan. 31.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150°00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15A consists of that portion of Unit 15 north of the north bank of the Kenai River and the northern shore of Skilak Lake;

(B) Unit 15B consists of that portion of Unit 15 south of the north bank of the Kenai River and the northern shore of Skilak Lake, and north of the north bank of the Kasilof River, the northern shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier; and

(C) Unit 15C consists of the remainder of Unit 15.

(ii) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1 through March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15A bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the northern shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15B east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier; and

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 15A and 15B—2 bears by Federal registration permit	July 1–June 30.
Unit 15C—3 bears	July 1–June 30.
Brown Bear: Unit 15—1 bear every 4 regulatory years by Federal registration permit. The season may be opened or closed by announcement from the Kenai National Wildlife Refuge Manager after consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Sep. 1–Nov. 30, to be announced and Apr. 1–June 15, to be announced.
Moose:	
Unit 15A—Skilak Loop Wildlife Management Area	No open season.
Units 15A, remainder, 15B, and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sep. 20.
Units 15B and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only. The Kenai NWR Refuge Manager is authorized to close the October–November season based on conservation concerns, in consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Oct. 20–Nov. 10.
Unit 15C —1 cow by Federal registration permit only	Aug. 10–Sep. 20.
Coyote: No limit	Sep. 1–Apr. 30.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 15–that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 15, remainder—5 wolves	Aug. 10–Apr. 30.

Harvest limits	Open season
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (Ruffed)	No open season.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15A and 15B—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15C—20 per day, 40 in possession	Aug. 10–Dec. 31.
Unit 15C—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping	
Beaver: 20 beaver per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): 1 Fox	Nov. 10–Feb. 28.
Lynx: No limit	Jan. 1–31.
Marten:	
Unit 15B—that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: Unit 15—No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: Unit 15B and C—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the western side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the western side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the southern side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16A consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier; and

(B) Unit 16B consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Caribou: 1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16B–Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 bull.	Sep. 1–15.
Unit 16B–Denali National Preserve only—1 bull by Federal registration permit. One Federal registration permit for moose issued per household.	Sep. 1–30. Dec. 1–Feb. 28.
Unit 16B, remainder—1 bull	Sep. 1–30. Dec. 1–Feb. 28.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Dec. 1–Jan. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Oct. 10–May 15.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 15–Jan. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.

Harvest limits	Open season
Wolverine: No limit	Nov. 10–Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17A consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17B consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage and the Wood River drainage upstream from the outlet of Lake Beverley; and

(C) Unit 17C consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bear, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1–Nov. 1.

(B) [Reserved]

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15–May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

Harvest limits	Open season
Hunting	
Black Bear: 2 bears	Aug. 1–May 31.
Brown Bear: Unit 17—1 bear by State registration permit only	Sep. 1–May 31.
Caribou: Unit 17A–all drainages west of Right Hand Point—2 caribou by State registration permit	Aug. 1–Mar. 31.
Units 17A and 17C–that portion of 17A and 17C consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—up to 5 caribou by Federal registration permit.	Aug. 1–Mar. 31.
Public lands are closed to the taking of caribou except by federally qualified users unless the population estimate exceeds 900 caribou.	
Units 17A remainder and 17C remainder—selected drainages; a harvest limit of up to 2 caribou by State registration permit will be determined at the time the season is announced.	Season may be announced between Aug. 1–Mar. 31.
Units 17B and 17C–that portion of 17C east of the Wood River and Wood River Lakes—2 caribou by State registration permit.	Aug. 1–Mar. 31.
Sheep: 1 ram with full curl or larger horn	Aug. 10–Sep. 20.
Moose: Unit 17A—1 bull by State registration permit	Aug. 25–Sep. 20.
Unit 17A—up to 2 moose; one antlered bull by State registration permit, one antlerless moose by State registration permit.	Up to a 31-day season may be announced between Dec. 1–last day of Feb.
Units 17B and 17C—one bull	Aug. 20–Sep. 15. Dec. 1–31.
During the period Aug. 20–Sep. 15—one bull by State registration permit; or.	
During the period Sep. 1–15—one bull with spike-fork or 50-inch antlers or antlers with three or more brow tines on at least one side with a State harvest ticket; or	
During the period Dec. 1–31—one antlered bull by State registration permit.	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sep. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: Unit 17—No limit	Oct. 10–Mar. 31.
Unit 17—2 beaver per day. Only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: 2 muskrats	Nov. 10–Feb. 28.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers westerly and downstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Paimiut Portage to its intersection with Arhymot Lake, then south along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River), then along the south bank of Crooked Creek downstream to the northern terminus of Crooked Creek to the Yukon-Kuskokwim Portage (locally known as the Mud Creek Tramway), then along the west side of the tramway to Mud Creek, then along the westerly bank of Mud Creek downstream to an unnamed slough of the Kuskokwim River (locally known as First Slough or Kalskag Slough), then along the west bank of this unnamed slough downstream to its confluence with the Kuskokwim River, then southeast across the Kuskokwim River to its southerly bank, then along the south bank of the Kuskokwim River upriver to the confluence of a Kuskokwim River slough locally known as Old River, then across Old River to the downriver terminus of the island formed by Old River and the Kuskokwim River, then along the north bank of the main channel of Old River to Igyalleq Creek (Whitefish Creek), then along the south and west bank of Igyalleq Creek to Whitefish Lake, then directly across Whitefish Lake to Ophir Creek, then along the west bank of Ophir Creek to its headwaters at 61° 10.22' N. lat., 159° 46.05' W. long., and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthews, and adjacent islands between Cape Newenham and the Pastolik River, and all seaward waters and lands within 3 miles of these coastlines.

(ii) In the Kalskag Controlled Use Area, which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you are not allowed to use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from April 1 through June 10.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) You may take caribou from a boat moving under power in Unit 18.

(D) You may take moose from a boat moving under power in that portion of Unit 18 west of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (N 60°59.41′ Latitude; W 162°22.14′ Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank west to the Unit 18 border.

(E) Taking of wildlife in Unit 18 while in possession of lead shot size T, .20 caliber or less in diameter, is prohibited.

(F) You may not pursue with a motorized vehicle an ungulate that is at or near a full gallop.

(G) You may use artificial light when taking a bear at a den site.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: 1 bear by State registration permit only	Sep. 1–May 31.
Caribou:	
Unit 18–that portion to the east and south of the Kuskokwim River—2 caribou by State registration permit.	Aug. 1–Mar. 15.
Unit 18, remainder—2 caribou by State registration permit	Aug. 1–Mar. 15.
Moose: Unit 18–that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (N 60°59.41′ Latitude; W162°22.14′ Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank east of the Unit 18 border and then north of and including the Eek River drainage—1 antlered bull by State registration permit; quotas will be announced annually by the Yukon Delta National Wildlife Refuge Manager	Sep. 1–30.
Federal public lands are closed to the taking of moose except by residents of Tuntutuliak, Eek, Napakiak, Napaskiak, Kasigluk, Nunapitchuk, Atmautlauk, Oscarville, Bethel, Kwethluk, Akiachak, Akiak, Tuluksak, Lower Kalskag, and Kalskag.	
Unit 18–south of and including the Kanektok River drainages to the Goodnews River drainage. Federal public lands are closed to the taking of moose by all users.	No open season.
Unit 18—Goodnews River drainage and south to the Unit 18 boundary—1 antlered bull by State registration permit.	Sep. 1–30
or	
1 moose by State registration permit	A season may be announced between Dec. 1 and the last day of Feb.
Unit 18, remainder—2 moose, only one of which may be antlered. Antlered bulls may not be harvested from Oct. 1 through Nov. 30.	Aug. 1–Apr. 30.
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sep. 1–Apr. 30.

Harvest limits	Open season
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 5 lynx	Aug. 10–Apr. 30.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 2 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 15 per day, 30 in possession	Aug. 10–May 30.
Trapping	
Beaver: No limit	July 1–June 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Mar. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream, excluding the drainages of Arhymot Lake, from a line starting at the outlet of Arhymot Lake at Crooked Creek (locally known as Johnson River), then along the south bank of Crooked Creek downstream to the northern terminus of Crooked Creek to the Yukon-Kuskokwim Portage (locally known as the Mud Creek Tramway), then along the west side of the tramway to Mud Creek, then along the westerly bank of Mud Creek downstream to an unnamed slough of the Kuskokwim River (locally known as First Slough or Kalskag Slough), then along the west bank of this unnamed slough downstream to its confluence with the Kuskokwim River, then southeast across the Kuskokwim River to its southerly bank, then along the south bank of the Kuskokwim River upriver to the confluence of a Kuskokwim River slough locally known as Old River, then across Old River to the downriver terminus of the island formed by Old River and the Kuskokwim River, then along the north bank of the main channel of Old River to Igyalleq Creek (Whitefish Creek), then along the south and west bank of Igyalleq Creek to Whitefish Lake, then directly across Whitefish Lake to Ophir Creek then along the west bank of Ophir Creek to its headwaters at 61° 10.22' N. lat., 159° 46.05' W. long.:

(A) Unit 19A consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19B;

(B) Unit 19B consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19C consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwestern corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage; and

(D) Unit 19D consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19D upstream from the mouth of the Selatna River, but excluding the Selatna and Black River drainages, to a line extending from Dyckman Mountain on the northern Unit 19D boundary southeast to the 1,610-foot crest of Munsatli Ridge, then south along Munsatli Ridge to the 2,981-foot peak of Telida Mountain, then northeast to the intersection of the western boundary of Denali National Preserve with the Minchumina–Telida winter trail, then south along the western boundary of Denali National Preserve to the southern boundary of Unit 19D, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in those portions of Units19A and 19B downstream of and including the Aniak River drainage if you have obtained a State registration permit prior to hunting.

(C) In Unit 19C, individual residents of Nikolai may harvest sheep during the Aug. 10 to Sep. 20 season and not have that animal count against the community harvest limit (during the Oct. 1 to Mar. 30 season). Individual residents of Nikolai that harvest a sheep under State regulations may not participate in the Oct. 1 to Mar. 30 community harvest.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Units 19A and 19B–those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Aug. 10–June 30.
Units 19A, remainder, 19B, remainder, and Unit 19D—1 bear	Aug. 10–June 30.
Caribou: Units 19A and 19B–(excluding rural Alaska residents of Lime Village)—2 caribou by State registration permit.	Aug. 1–Mar. 15.
Unit 19C—1 caribou	Aug. 10–Oct. 10.
Unit 19D–south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sep. 30. Nov. 1–Jan. 31.
Unit 19D, remainder—1 caribou	Aug. 10–Sep. 30.
Unit 19—Residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken fromApr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep: 1 ram with 7/8 curl horn or larger	Aug. 10–Sep. 20.
Unit 19C–that portion within the Denali National Park and Preserve–residents of Nikolai only—no individual harvest limit, but a community harvest quota will be set annually by the Denali National Park and Preserve Superintendent; rams or ewes without lambs only. Reporting will be by a community reporting system.	Oct. 1–Mar. 30.
Moose: Unit 19–Residents of Lime Village only—no individual harvest limit, but a village harvest quota of 28 bulls (including those taken under the State permits). Reporting will be by a community reporting system.	July 1–June 30.
Unit 19A–North of the Kuskokwim River, upstream from but excluding the George River drainage, and south of the Kuskokwim River upstream from and including the Downey Creek drainage, not including the Lime Village Management Area; Federal public lands are closed to the taking of moose.	No open season.
Unit 19A, remainder—1 antlered bull by Federal drawing permit or a State permit. Federal public lands are closed to the taking of moose except by residents of Tuluksak, Lower Kalskag, Upper Kalskag, Aniak, Chuathbaluk, and Crooked Creek hunting under these regulations. The Refuge Manager of the Yukon Delta NWR, in cooperation with the BLM Field Office Manager, will annually establish the harvest quota and number of permits to be issued in coordination with the State Tier I hunt. If the allowable harvest level is reached before the regular season closing date, the Refuge Manager, in consultation with the BLM Field Office Manager, will announce an early closure of Federal public lands to all moose hunting.	Sep. 1–20.
Unit 19B—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side	Sep. 1–20.
Unit 19C—1 antlered bull	Sep. 1–20.
Unit 19C—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19D–that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sep. 1–30.
Unit 19D–remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sep. 1–30. Dec. 1–Feb. 28.
Unit 19D, remainder—1 antlered bull	Sep. 1–30. Dec. 1–15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: Unit 19D—10 wolves per day	Aug. 10–Apr. 30.
Unit 19, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Mar. 31.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20A consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River.

(B) Unit 20B consists of drainages into the northern bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage.

(C) Unit 20C consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River.

(D) Unit 20D consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage.

(E) Unit 20E consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage.

(F) Unit 20F consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 of the Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River.

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(D) You may not use any motorized vehicle for hunting August 5–September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20E bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport.

(E) You may by permit hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River 3 miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning.

(F) You may hunt moose only by bow and arrow in the Fairbanks Management Area. The Area consists of that portion of Unit 20B bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans-Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans-Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear April 15–June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 20E during April and October.

(C) Residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals at the request of the Native Village of Tanana only. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 20A—1 bear	Sep. 1–May 31.
Unit 20E—1 bear	Aug. 10–June 30.
Unit 20, remainder—1 bear	Sep. 1–May 31.
Caribou: Unit 20E—1 caribou; a joint State/Federal registration permit is required. During the Aug. 10–Sep. 30 season, the harvest is restricted to 1 bull. The harvest quota for the period Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou. During the Nov. 1–Mar. 31 season, area closures or hunt restrictions may be announced when Nelchina caribou are present in a mix of more than 1 Nelchina caribou to 15 Fortymile caribou, except when the number of caribou present is low enough that fewer than 50 Nelchina caribou will be harvested regardless of the mixing ratio for the two herds.	Aug. 10–Sep. 30. Nov. 1–Mar. 31.
Unit 20F—north of the Yukon River—1 caribou	Aug. 10–Mar. 31.
Unit 20F—east of the Dalton Highway and south of the Yukon River—1 caribou; a joint State/Federal registration permit is required. During the Aug. 10–Sep. 30 season, the harvest is restricted to 1 bull. The harvest quota for the period Aug. 10–29 in Units 20E, 20F, and 25C is 100 caribou.	Aug. 10–Sep. 30. Nov. 1–Mar. 31.
Moose: Unit 20A—1 antlered bull	Sep. 1–20.
Unit 20B—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only.	Sep. 1–20. Jan. 10–Feb. 28.
Unit 20B, remainder—1 antlered bull	Sep. 1–20.
Unit 20C–that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sep. 1–30. Nov. 15–Dec. 15.
Unit 20C, remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sep. 1–30.
Unit 20E—that portion within Yukon–Charley Rivers National Preserve—1 bull	Aug. 20–Sep. 30.
Unit 20E—that portion drained by the Middle Fork of the Fortymile River upstream from and including the Joseph Creek drainage—1 bull.	Aug. 20–Sep. 30.
Unit 20E, remainder—1 bull by joint Federal/State registration permit	Aug. 20–Sep. 30.
Unit 20F—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sep. 1–25.
Unit 20F, remainder—1 antlered bull	Sep. 1–30. Dec. 1–10.
Sheep: Unit 20E—1 ram with full-curl horn or larger	Aug. 10–Sep. 20.
Unit 20, remainder	No open season.
Beaver: Unit 20E—Yukon–Charley Rivers National Preserve—6 beaver per season. Meat from harvested beaver must be salvaged for human consumption.	Sep. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: Units 20A, 20B, and that portion of 20C east of the Teklanika River—2 lynx	Dec. 1–Jan. 31.
Unit 20E—2 lynx	Nov. 1–Jan. 31.
Unit 20, remainder—2 lynx	Dec. 1–Jan. 31.
Muskrat: Unit 20E, that portion within Yukon-Charley Rivers National Preserve—No limit	Sep. 20–June 10.
Unit 20C, that portion within Denali National Park and Preserve—25 muskrat	Nov. 1–June 10.
Unit 20, remainder	No open season.
Wolf: Unit 20—10 wolves	Aug. 10–Apr. 30.
Unit 20C, that portion within Denali National Park and Preserve—1 wolf during the Aug. 10–Oct. 31 period; 5 wolves during the Nov. 1–Apr. 30 period, for a total of 6 wolves for the season.	Aug. 10–Oct. 31. Nov. 1–Apr. 30.
Unit 20C, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): Units 20A, 20B, 20C, 20E, and 20F—15 per day, 30 in possession.	Aug. 10–Mar. 31.
Ptarmigan (Rock and Willow): Unit 20—those portions within 5 miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 15.
Unit 20E—No limit. Hide or meat must be salvaged. Traps, snares, bow and arrow, or firearms may be used.	Sep. 15–June 10.
Coyote: Unit 20E—No limit	Oct. 15–Apr. 30.
Unit 20, remainder—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.

Harvest limits	Open season
Lynx: Unit 20A, 20B, and 20C east of the Teklanika River—No limit	Dec. 15–Feb. 15.
Unit 20E—No limit	Nov. 1–Mar. 15.
Unit 20F and 20C, remainder—No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: Unit 20E—No limit	Sep. 20–June 10.
Unit 20, remainder—No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 30.
Unit 20E—No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(21) *Unit 21*. (i) Unit 21 consists of drainages into the Yukon River and Arhymot Lake upstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Portage to its intersection with Arhymot Lake, then south along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River) drainage then to, but not including, the Tozitna River drainage on the north bank, and to but not including the Tanana River drainage on the south bank, and excluding the Koyukuk River drainage upstream from the Dulbi River drainage:

(A) Unit 21A consists of the Innoko River drainage upstream from and including the Iditarod River drainage.

(B) Unit 21B consists of the Yukon River drainage upstream from Ruby and east of the Ruby–Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Melozitna River drainage upstream from Grayling Creek.

(C) Unit 21C consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage.

(D) Unit 21D consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby–Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek.

(E) Unit 21E consists of that portion of Unit 21 in the Yukon River and Arhymot Lake drainages upstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River, then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Portage to its intersection with Arhymot Lake, then along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River) drainage, then to, but not including, the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N lat., 157°43.10′ W long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N lat., 157°44.89′ W long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57′ N lat., 156°41′ W long.) at 65°56.66′ N lat., 156°40.81′ W long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N lat., 156° 12.71′ W long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N lat., 155°18.57′ W long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N lat., 154°52.18′ W long., then southwest to the mouth of Cottonwood Creek at 65°3.00′ N lat., 156°06.43′ W long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N lat., 157° 21.73′ W long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then extending 2 miles easterly down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) In Unit 21D, you may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25.

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Nov. 1–June 10.

(C) The residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three-moose limit is not cumulative with that permitted by the State.

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three-moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 21D—1 bear by State registration permit only	Aug. 10–June 30.
Unit 21, remainder—1 bear	Aug. 10–June 30.
Caribou:	
Unit 21A—1 caribou	Aug. 10–Sep. 30. Dec. 10–20.
Unit 21B—that portion north of the Yukon River and downstream from Ukawutni Creek.	No open season.
Unit 21C—the Dulbi and Melozitna River drainages downstream from Big Creek	No open season.
Unit 21B remainder, 21C remainder, and 21E—1 caribou	Aug. 10–Sep. 30.
Unit 21D—north of the Yukon River and east of the Koyukuk River—caribou may be taken during a winter season to be announced.	Winter season to be announced.
Unit 21D, remainder—5 caribou per day, as follows: Calves may not be taken	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	Sep. 1–Mar. 31.
Moose:	
Unit 21B—that portion within the Nowitna National Wildlife Refuge downstream from and including the Little Mud River drainage—1 bull. A State registration permit is required from Sep. 5–25. A Federal registration permit is required from Sep. 26–Oct. 1.	Sep. 5–Oct. 1.
Unit 21B—that portion within the Nowitna National Wildlife Refuge downstream from and including the Little Mud River drainage—1 antlered bull. A Federal registration permit is required during the 5-day season and will be limited to one per household.	Five-day season to be announced between Dec. 1 and Mar. 31.
Units 21A and 21B, remainder—1 bull	Aug. 20–Sep. 25. Nov. 1–30.
Unit 21C—1 antlered bull	Sep. 5–25.
Unit 21D—Koyukuk Controlled Use Area—1 bull; 1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna NWR manager. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Sep. 1–25. Mar. 1–5 season to be announced.
or	
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna NWR manager and BLM Central Yukon field office manager. A harvestable surplus of bulls will be determined for a quota. Announcement for the March and April seasons and harvest quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and Middle Yukon and Koyukuk River Fish and Game Advisory Committee.	Apr. 10–15 season to be announced.
Unit 21D, remainder—1 moose; however, antlerless moose may be taken only during Sep. 21–25 and the Mar. 1–5 season if authorized jointly by the Koyukuk/Nowitna National Wildlife Refuge Manager and the Central Yukon Field Office Manager, Bureau of Land Management. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 22–31 and Sep. 5–25 seasons, a State registration permit is required. During the Mar. 1–5 season, a Federal registration permit is required. Announcement for the antlerless moose seasons and cow quotas will be made after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee.	Aug. 22–31. Sep. 5–25. Mar. 1–5 season to be announced.
Unit 21E—1 moose; however, only bulls may be taken from Aug. 25–Sep. 30	Aug. 25–Sep. 30.
During the Feb. 15—Mar. 15 season, a Federal registration permit is required. The permit conditions and any needed closures for the winter season will be announced by the Innoko NWR manager after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee as stipulated in a letter of delegation. Moose may not be taken within one-half mile of the Innoko or Yukon River during the winter season.	Feb. 15–Mar. 15.
Beaver:	
Unit 21E—No limit	Nov. 1–June 10.
Unit 21, remainder	No open season.

Harvest limits	Open season
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No Limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(22) *Unit 22.* (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22A consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands.

(B) Unit 22B consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage.

(C) Unit 22C consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands.

(D) Unit 22D consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York and St. Lawrence Island.

(E) Unit 22E consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons.

(B) Coyote, incidentally taken with a trap or snare, may be used for subsistence purposes.

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

(D) The taking of one bull moose and up to three musk oxen by the community of Wales is allowed for the celebration of the Kingikmuit Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may occur only within regularly established seasons in Unit 22E. The harvest will count against any established quota for the area.

(E) A federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take musk oxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients in the course of a season, but have no more than two harvest limits in his/her possession at any one time, except in Unit 22E where a resident of Wales or Shishmaref acting as a designated hunter may hunt for any number of recipients, but have no more than four harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 22A and 22B—3 bears	July 1–June 30.
Unit 22, remainder	No open season.
Brown Bear:	
Units 22A, 22D remainder, and 22E—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22B—2 bears by State registration permit	Aug. 1–May 31.
Unit 22C—1 bear by State registration permit only	Aug. 1–Oct. 31.
	Apr. 1–May 31.

Harvest limits	Open season
Unit 22D—that portion west of the Tisuk River drainage, west of the west bank of the unnamed creek originating at the Unit boundary opposite the headwaters of McAdam's Creek and west of the west bank of Canyon Creek to its confluence with Tuksuk Channel—2 bears by Federal registration permit.	July 1–June 30.
Caribou:	
Unit 22B—that portion west of Golovnin Bay and west of a line along the west bank of the Fish and Niukluk Rivers to the mouth of the Libby River, and excluding all portions of the Niukluk River drainage upstream from and including the Libby River drainage—5 caribou per day by State registration permit. Calves may not be taken.	Oct. 1–Apr. 30. May 1–Sep. 30, a season may be announced.
Units 22A—that portion north of the Golsovia River drainage, 22B remainder, that portion of Unit 22D in the Kuzitrin River drainage (excluding the Pilgrim River drainage), and the Agiapuk River drainages, including the tributaries, and Unit 22E–that portion east of and including the Tin Creek drainage—5 caribou per day by State registration permit. Calves may not be taken.	July 1–June 30.
Unit 22A, remainder—5 caribou per day by State registration permit. Calves may not be taken	July 1–June 30, season may be announced.
Unit 22D, that portion in the Pilgrim River drainage—5 caribou per day by State registration permit. Calves may not be taken.	Oct. 1–Apr. 30. May 1–Sep. 30, season may be announced.
Units 22C, 22D remainder, 22E remainder—5 caribou per day by State registration permit. Calves may not be taken.	July 1–June 30, season may be announced.
Moose:	
Unit 22A—that portion north of and including the Tagoomenik and Shaktoolik River drainages—1 bull. Federal public lands are closed to hunting except by federally qualified users hunting under these regulations.	Aug. 1–Sep. 30.
Unit 22A—that portion in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia River drainage and south of the Tagoomenik and Shaktoolik River drainages—Federal public lands are closed to the taking of moose, except that residents of Unalakleet, hunting under these regulations, may take 1 bull by Federal registration permit, administered by the BLM Anchorage Field Office with the authority to close the season in consultation with ADF&G.	Aug. 15–Sep. 14.
Unit 22A, remainder—1 bull. However, during the period Jan.1–Feb. 15, only an antlered bull may be taken. Federal public lands are closed to the taking of moose except by federally qualified subsistence users.	Aug. 1–Sep. 30. Jan. 1–Feb. 15.
Unit 22B—west of the Darby Mountains—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by federally qualified subsistence users hunting under these regulations.	Sep. 1–14.
Unit 22B—west of the Darby Mountains—1 bull by either Federal or State registration permit. Quotas and any needed season closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS, and ADF&G. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin hunting under these regulations.	Jan. 1–31.
Unit 22B, remainder—1 bull	Aug. 1–Jan. 31.
Unit 22C—1 antlered bull	Sep. 1–14.
Unit 22D—that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Sep. 1–14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G.	Sep. 1–14.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Dec. 1–31.
Unit 22D, remainder—1 bull	Aug. 10–Sep. 14. Oct. 1–Nov. 30.
Unit 22D, remainder—1 moose; however, no person may take a calf or a cow accompanied by a calf	Dec. 1–31.
Unit 22D, remainder—1 antlered bull	Jan. 1–31.
Unit 22E—1 antlered bull. Federal public lands are closed to the taking of moose except by federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Musk ox:	
Unit 22B—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except by federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22D—that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal permit or State permit. Federal public lands are closed to the harvest of musk ox except by residents of Nome and Teller hunting under these regulations.	Sep. 1–Mar. 15.
Unit 22D, that portion within the Kuzitrin River drainages—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except for residents of Council, Golovin, White Mountain, Nome, Teller, and Brevig Mission hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22D, remainder—1 bull by Federal permit or State permit. Federal public lands are closed to the taking of musk ox except by residents of Elim, White Mountain, Nome, Teller, and Brevig Mission hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22E—1 bull by Federal permit or State permit. Federal public lands are closed to the harvest of musk ox except by federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22, remainder	No open season.

Harvest limits	Open season
Beaver:	
Units 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22, remainder	No open season.
Coyote	No open season.
Fox, Arctic (Blue and White Phase): 2 foxes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	Sep. 1–Apr. 15.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Marten:	
Units 22A and 22B—No limit	Nov. 1–Apr. 15.
Unit 22, remainder	No open season.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 15.
Wolverine: 3 wolverines	Sep. 1–Mar. 31.
Grouse (Spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Units 22A and 22B east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22E—20 per day, 40 in possession	July 15–May 15.
Unit 22, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Units 22A, 22B, 22D, and 22E—50 beaver	Nov. 1–June 10.
Unit 22C	No open season.
Coyote	No open season.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(23) *Unit 23.* (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area for the period August 15–September 30. The Area consists of that portion of Unit 23 in a corridor extending 5 miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek. This closure does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service.

(B) [Reserved]

(iii) You may not use aircraft in any manner for brown bear hunting, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 23.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1–June 10.

(D) For the Baird and DeLong Mountain sheep hunts—A federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time.

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine. On BLM-managed lands only, a snowmachine may be used to position a caribou, wolf, or wolverine for harvest provided that the animals are not shot from a moving snowmachine.

(F) A federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take musk oxen on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients, but have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	Jul. 1–Jun. 30.
Brown Bear: Unit 23—2 bears by State subsistence registration permit	Jul. 1–Jun. 30.
Caribou:	
Unit 23—that portion which includes all drainages north and west of, and including, the Singoalik River drainage—5 caribou per day by State registration permit as follows:.	
Calves may not be taken.	
Bulls may be harvested	Jul. 1–Oct. 14. Feb. 1–Jun. 30.
Cows may be harvested. However, cows accompanied by calves may not be taken July 15–Oct. 14.	Jul. 15–Apr. 30.
Unit 23, remainder—5 caribou per day by State registration permit, as follows:.	
Calves may not be taken.	
Bulls may be harvested	Jul. 1–Oct. 31. Feb. 1–Jun. 30.
Cows may be harvested. However, cows accompanied by calves may not be taken July 31–Oct. 14.	Jul. 31–Mar. 31
Federal public lands within a 10-mile-wide corridor (5 miles either side) along the Noatak River from the western boundary of Noatak National Preserve upstream to the confluence with the Cutler River; within the northern and southern boundaries of the Eli and Agashashok River drainages, respectively; and within the Squirrel River drainage are closed to caribou hunting except by federally qualified subsistence users hunting under these regulations.	
Sheep:	
Unit 23—south of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 sheep by Federal registration permit. Federal public lands are closed to the taking of sheep except by federally qualified subsistence users hunting under these regulations.	May be announced.
Unit 23—north of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 sheep by Federal registration permit.	May be announced.
Unit 23, remainder (Schwatka Mountains) except for that portion within Gates of the Arctic National Park and Preserve—1 sheep by Federal registration permit.	May be announced.
Unit 23, remainder (Schwatka Mountains) that portion within Gates of the Arctic National Park and Preserve—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Unit 23, remainder (Schwatka Mountains) that portion within Gates of the Arctic National Park and Preserve—1 sheep.	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 moose.	
Bulls may be harvested	July 1–Dec. 31.
Cows may be harvested	Nov. 1–Dec. 31.
No person may take a calf or a cow accompanied by a calf.	
Unit 23, remainder—1 moose.	
Bulls may be harvested	Aug. 1–Dec. 31.
Cows may be harvested	Nov. 1–Dec. 31.
No person may take a calf or a cow accompanied by a calf.	
Musk ox:	
Unit 23—south of Kotzebue Sound and west of and including the Buckland River drainage—1 bull by Federal permit or State permit.	Aug. 1–Mar. 15.
Federal public lands are closed to the taking of musk oxen except by federally qualified subsistence users hunting under these regulations.	
Unit 23—Cape Krusenstern National Monument—1 bull by Federal permit. Cape Krusenstern National Monument is closed to the taking of musk oxen except by federally qualified subsistence users but not residents of Point Hope.	Aug. 1–Mar. 15.
Unit 23—that portion north and west of the Kobuk River drainage—1 bull by State or Federal registration permit.	Aug. 1–Mar. 15
Unit 23, remainder	No open season.
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Sep. 1–Mar. 15.
Hare: (Snowshoe and Tundra) No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Oct. 1–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Muskrat: No limit	July 1–June 30.
Grouse (Spruce and Ruffed): 15 per day, 30 in possession.	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	July 1–June 30.
Unit 23, remainder—30 beaver	July 1–June 30.

Harvest limits	Open season
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(24) *Unit 24.* (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage:

(A) Unit 24A consists of the Middle Fork of the Koyukuk River drainage upstream from but not including the Harriet Creek and North Fork Koyukuk River drainages, to the South Fork of the Koyukuk River drainage upstream from Squaw Creek, the Jim River Drainage, the Fish Creek drainage upstream from and including the Bonanza Creek drainage, to the 1,410 ft. peak of the hydrologic divide with the northern fork of the Kanuti Chalatna River at N lat. 66°33.303′ W long. 151°03.637′ and following the unnamed northern fork of the Kanuti Chalatna Creek to the confluence of the southern fork of the Kanuti Chalatna River at N lat. 66°27.090′ W long. 151°23.841′, 4.2 miles SSW (194 degrees true) of Clawanmenka Lake and following the unnamed southern fork of the Kanuti Chalatna Creek to the hydrologic divide with the Kanuti River drainage at N lat. 66°19.789′ W long. 151°10.102′, 3.0 miles ENE (79 degrees true) from the 2,055 ft. peak on that divide, and the Kanuti River drainage upstream from the confluence of an unnamed creek at N lat. 66°13.050′ W long. 151°05.864′, 0.9 miles SSE (155 degrees true) of a 1,980 ft. peak on that divide, and following that unnamed creek to the Unit 24 boundary on the hydrologic divide to the Ray River drainage at N lat. 66°03.827′ W long. 150°49.988′ at the 2,920 ft. peak of that divide.

(B) Unit 24B consists of the Koyukuk River Drainage upstream from Dog Island to the Subunit 24A boundary.

(C) Unit 24C consists of the Hogatza River Drainage, the Koyukuk River Drainage upstream from Batza River on the north side of the Koyukuk River and upstream from and including the Indian River Drainage on the south side of the Koyukuk River to the Subunit 24B boundary.

(D) Unit 24D consists of the remainder of Unit 24.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles, or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area.

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N lat., 157°43.10′ W long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N lat., 157°44.89′ W long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N lat., 156°41 W long.) at 65°56.66′ N lat., 156°40.81′ W long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N lat., 156°12.71′ W long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N lat., 155°18.57′ W long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N lat., 154°52.18′ W long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N lat., 156° 06.43′ W long., then southwest to Bishop Rock (Yistletaw) at 64° 49.35′ N. lat., 157°21.73′ W long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning. However, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area. All hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears. However, this prohibition does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and

in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25.

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

(C) If you are a resident of Unit 24A, 24B, or 24C, during the dates of Oct. 15–Apr. 30, you may use an artificial light when taking a black bear, including a sow accompanied by cub(s), at a den site within the portions of Gates of the Arctic National Park and Preserve that are within Unit 24A, 24B, or 24C.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 24—1 bear by State registration permit	Aug. 10–June 30.
Caribou:	
Unit 24A—that portion south of the south bank of the Kanuti River—1 caribou	Aug. 10–Mar. 31.
Unit 24B—that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Units 24A remainder, 24B remainder—5 caribou per day as follows:.	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	July 15–Apr. 30.
Units 24C, 24D—5 caribou per day as follows:.	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	Sep. 1–Mar. 31.
Sheep:	
Units 24A and 24B—(Anaktuvuk Pass residents only)–that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes, and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Units 24A and 24B—(excluding Anaktuvuk Pass residents)–that portion within the Gates of the Arctic National Park—3 sheep, no more than one of which may be a ewe, by Federal registration permit only, with exception for residents of Alatna and Allakaket who will report by a National Park Service community harvest system.	Aug. 1–Apr. 30.
Unit 24A–except that portion within the Gates of the Arctic National Park—1 ram by Federal registration permit only.	Aug. 20–Sep. 30.
Unit 24, remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sep. 20.
Moose:	
Unit 24A—1 antlered bull by Federal registration permit	Aug. 25–Oct. 1.
Unit 24B—that portion within the John River Drainage—1 moose by State harvest ticket	Aug. 1–Dec. 14.
or	or
1 antlered bull by State registration permit	Dec. 15–Apr. 15.
Unit 24B, remainder—1 antlered bull by State harvest ticket	Aug. 25–Oct. 1.
or	or
1 antlered bull by State registration permit	Dec. 15–Apr. 15.
Federal public lands in the Kanuti Controlled Use Area, as described in Federal regulations, are closed to taking of moose, except by federally qualified subsistence users of Unit 24, Koyukuk, and Galena.	
Units 24C and 24D—that portion within the Koyukuk Controlled Use Area and Koyukuk National Wildlife Refuge—1 bull.	Sep. 1–25.
1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Mar. 1–5 to be announced.
or	or
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. Announcement for the March and April seasons and harvest quotas will be made after consultation with the ADF&G Area Biologist and the Chairs of the Western Interior Alaska Subsistence Regional Advisory Council, and the Middle Yukon and Koyukuk River Fish and Game Advisory Committees.	Apr. 10–15 to be announced.
Unit 24C, remainder and Unit 24D, remainder—1 antlered bull. During the Sep. 5–25 season, a State registration permit is required.	Aug. 25–Oct. 1.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine: 5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sep. 1–Mar. 31.
Grouse (Spruce, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession.	Aug. 10–Apr. 30.

Harvest limits	Open season
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 24A—no limit	Nov. 1–Mar 31.
Units 24B, 24C, and 24D—no limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(25) *Unit 25*. (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25A consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage.

(B) Unit 25B consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River.

(C) Unit 25C consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20E boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage.

(D) Unit 25D consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25A north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into two roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the headwaters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25; in Unit 25D you may use bait to hunt brown bear between April 15 and June 30 and between August 1 and September 25; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may take caribou and moose from a boat moving under power in Unit 25.

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25D west provided that:

(*1*) The person organizing the religious ceremony or cultural event contacts the Refuge Manager, Yukon Flats National Wildlife Refuge, prior to taking or attempting to take bull moose and provides to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, and the general area in which the taking will occur.

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge, not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s).

(*3*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25D west.

(*4*) Any moose taken under this provision counts against the annual quota of 60 bulls.

Harvest limits	Open season
Hunting	
Black Bear:	
Units 25A, 25B, and 25C—3 bears or 3 bears by State community harvest permit	July 1–June 30. July 1–June 30.
Unit 25D—5 bears	July 1–June 30.
Brown Bear:	
Units 25A and 25B—1 bear	Aug. 10–June 30.
Unit 25C—1 bear	Sep. 1–May 31.
Unit 25D—2 bears every regulatory year	July 1–June 30.
Caribou:	
Unit 25A—in those portions west of the east bank of the East Fork of the Chandalar River extending from its confluence with the Chandalar River upstream to Guilbeau Pass and north of the south bank of the mainstem of the Chandalar River at its confluence with the East Fork Chandalar River west (and north of the south bank) along the West Fork Chandalar River—10 caribou. However, only bulls may be taken May 16–June 30.	July 1–June 30.
Unit 25C—1 caribou; a joint Federal/State registration permit is required. During the Aug. 10–Sep. 30 season, the harvest is restricted to 1 bull. The harvest quota between Aug.10–29 in Units 20E, 20F, and 25C is 100 caribou.	Aug. 10–Sep. 30. Nov. 1–Mar. 31.
Unit 25D–that portion of Unit 25D drained by the west fork of the Dall River west of 150° W. long.—1 bull.	Aug. 10–Sep. 30. Dec. 1–31.
Units 25A remainder, 25B, and Unit 25D, remainder—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25A—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25A—Arctic Village Sheep Management Area—2 rams by Federal registration permit only Federal public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik, and Chalkyitsik hunting under these regulations.	Aug. 10–Apr. 30.
Unit 25A, remainder—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Units 25B, 25C, and 25D—1 ram with full-curl horn or larger	Aug. 10–Sep. 20.
Moose:	
Unit 25A—1 antlered bull	Aug. 25–Sep. 25. Dec. 1–10.
Unit 25B—that portion within Yukon–Charley National Preserve—1 bull	Aug. 20–Oct. 7.
Unit 25B—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Oct. 7. Dec. 1–10.
Unit 25B—that portion, other than Yukon–Charley Rivers National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sep. 5–Oct. 7. Dec. 1–15.
Unit 25B, remainder—1 antlered bull	Aug. 25–Oct. 7. Dec. 1–15.
Unit 25C—1 antlered bull	Aug. 20–Sep. 30.
Unit 25D (west)—that portion lying west of a line extending from the Unit 25D boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek, and Lower Mouth of Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzic River, then upstream along the west bank of the Hadweenzic River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25D boundary—1 bull by a Federal registration permit. Permits will be available in the following villages: Beaver (25 permits), Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25D (west) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician. Moose hunting on public land in Unit 25D (west) is closed at all times except for residents of Unit 25D (west) hunting under these regulations. The moose season will be closed by announcement of the Refuge Manager Yukon Flats NWR when 60 moose have been harvested in the entirety (from Federal and non-Federal lands) of Unit 25D (west).	Aug. 25–Feb. 28.
Unit 25D, remainder—1 antlered moose	Aug. 25–Oct. 1. Dec. 1–20.
Beaver:	
Unit 25A, 25B, and 25D—1 beaver per day; 1 in possession	June 11–Aug. 31.
Unit 25A, 25B, and 25D—no limit	Sep. 1–June 10.
Unit 25C	No open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (Snowshoe): No limit	July 1–June 30.
Lynx:	
Unit 25C—2 lynx	Dec. 1–Jan. 31.
Unit 25, remainder—2 lynx	Nov. 1–Feb. 28.
Muskrat:	
Units 25B and 25C, that portion within Yukon–Charley Rivers National Preserve—No limit	Nov. 1–June 10.
Unit 25, remainder	No open season.
Wolf:	
Unit 25A—No limit	Aug. 10–Apr. 30.
Unit 25, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.

Harvest limits	Open season
Grouse (Spruce, Ruffed, and Sharp-tailed):	
Unit 25C—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock and Willow):	
Unit 25C—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 25C—No limit	Nov. 1–Apr. 15.
Unit 25, remainder—50 beaver	Nov. 1–Apr. 15.
Coyote: No limit	Oct. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Mar. 31.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine:	
Unit 25C—No limit	Nov. 1–Mar. 31.
Unit 25, remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26*. (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska–Canada border, including the Firth River drainage within Alaska:

(A) Unit 26A consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26B consists of that portion of Unit 26 east of Unit 26A, west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River; and

(C) Unit 26C consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose during the periods July. 1–Sep. 14 and Jan. 1–Mar. 31 in Unit 26A; however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports.

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(iii) You may not use aircraft in any manner for brown bear hunting, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) In Kaktovik, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take sheep or musk ox on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(D) For the DeLong Mountain sheep hunts—A federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take sheep on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipient's harvest limits in his/her possession at the same time.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear:	
Unit 26A—1 bear by State subsistence registration permit	July 1–June 30.
Unit 26B—1 bear	Jan. 1–Dec. 31.
Unit 26 C—1 bear	Aug. 10–June 30.

Harvest limits	Open season
Caribou:	
Unit 26A—that portion of the Colville River drainage upstream from the Anaktuvuk River, and drainages of the Chukchi Sea south and west of, and including the Utukok River drainage—5 caribou per day by State registration permit as follows:.	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Dec. 6–June 30.
Cows may be harvested; however, cows accompanied by calves may not be taken July 16–Oct. 15.	July 16–Mar. 15.
Unit 26A remainder—5 caribou per day by State registration permit as follows:.	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 15. Dec. 6–June 30.
Up to 3 cows per day may be harvested; however, cows accompanied by calves may not be taken July 16–Oct. 15.	July 16–Mar. 15.
Unit 26B, that portion south of 69° 30′ N. lat. and west of the Dalton Highway—5 caribou per day as follows:.	
Bulls may be harvested	July 1–Oct. 14. Dec. 10–June 30.
Cows may be harvested	July 1–Apr. 30.
Unit 26B remainder—5 caribou per day as follows:.	
Bulls may be harvested	July 1–June 30.
Cows may be harvested	July 1–May 15.
Unit 26C—10 caribou per day	July 1–Apr. 30.
You may not transport more than 5 caribou per regulatory year from Unit 26 except to the community of Anaktuvuk Pass.	
Sheep:	
Units 26A and 26B—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 26A—(excluding Anaktuvuk Pass residents)—those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26A—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 sheep by Federal registration permit.	Season may be announced.
Unit 26B—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 10–Sep. 20.
Unit 26A, remainder and 26B, remainder—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Unit 26C—3 sheep per regulatory year; the Aug. 10–Sep. 20 season is restricted to 1 ram with 7/8 curl or larger horn. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sep. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26A—that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 bull.	Aug. 1–Sep. 14.
Unit 26A—that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 moose; however, you may not take a calf or a cow accompanied by a calf.	Feb. 15–Apr. 15.
Unit 26A—that portion west of 156°00′ W longitude excluding the Colville River drainage—1 moose, however, you may not take a calf or a cow accompanied by a calf.	July 1–Sep. 14.
Unit 26A, remainder—1 bull	Aug. 1–Sep. 14.
Unit 26B—excluding the Canning River drainage—1 bull	Sep. 1–14.
Units 26B, remainder and 26C—1 moose by Federal registration permit by residents of Kaktovik only. Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit and hunting under these regulations.	May be announced.
Musk ox: Unit 26C—1 bull by Federal registration permit only. The number of permits that may be issued only to the residents of the village of Kaktovik will not exceed three percent (3%) of the number of musk oxen counted in Unit 26C during a pre-calving census. Public lands are closed to the taking of musk ox, except by rural Alaska residents of the village of Kaktovik hunting under these regulations	July 15–Mar. 31.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): 2 foxes	Sep. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Units 26A and 26B—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Unit 26C—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Aug. 10–Apr. 30.
Wolverine: 5 wolverine	Sep. 1–Mar. 31.
Ptarmigan (Rock and Willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase): No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.

Harvest limits	Open season
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

Dated: September 25, 2018.

Thomas C.J. Doolittle,

Acting Assistant Regional Director, U.S. Fish and Wildlife Service.

Dated: September 25, 2018.

Thomas Whitford,

Subsistence Program Leader USDA—Forest Service.

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Federal Register

Vol. 83, No. 195

Tuesday, October 9, 2018

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

49265–49458 1
49459–49768 2
49769–49986 3
49987–50254 4
50255–50474 5
50475–50802 9

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9791 50241
9792 50243
9793 50245
9794 50247
9795 50249
9796 50251
9797 50253

Administrative Orders:
Memorandums:
Memorandum of September 10, 2018 50237
Presidential Determinations:
No. 2018–12 of September 11,2018 50239

5 CFR

9800 49769

7 CFR

51 50475
318 49987
319 49987
945 49776
1400 49459
1416 49459

Proposed Rules:
56 50527
62 50527
70 50527
226 50038
810 49498
905 49499
920 49312
985 50527
986 50531
1212 49314

10 CFR

Proposed Rules
2 50533
431 49501

12 CFR

201 49472
204 49473
1231 49987

Proposed Rules:
30 50046
722 49857

14 CFR

39 .....49265, 49269, 49272, 49275, 49475, 49780, 49784, 49786, 49789, 49791, 49793, 50477, 50479, 50482
71 .....49277, 49482, 49483, 50255, 50256

Proposed Rules:
21 50536
39 .....49317, 50047, 50537, 50539
71 .....49506, 50050

15 CFR

902 49994

16 CFR

410 50484

Proposed Rules:
1130 50542

17 CFR

210 50148
229 50148
230 50148
239 50148
240 50148
249 50148
274 50148

Proposed Rules:
210 49630
229 49630
239 49630
240 .....49630, 50297
249 49630

21 CFR

172 .....50487, 50490
177 50490
573 49485

Proposed Rules:
573 49508

22 CFR

121 50003
123 50003

23 CFR

658 Appendix C 49487

24 CFR

570 50257

26 CFR

1 50258

29 CFR

4001 49799
4022 49799
4043 49799
4044 49799

Proposed Rules:
541 49869

33 CFR

100 49489
117 .....49278, 49279, 49280, 50007, 50259
165 .....49281, 49283, 50260,

50262, 50503
Proposed Rules:
165.....50310, 50545

36 CFR

242.....50758
Proposed Rules:
242.....49322

38 CFR

36.....50506

39 CFR

3050.....49286

40 CFR

9.....49295, 49806
52 .....49295, 49297, 49298, 49300, 49492, 49826, 50007, 50010, 50012, 50014, 50018, 50022, 50024, 50264, 50266, 50271, 50274, 50506
70.....49300
81.....50024
82.....50026
180.....50284
721.....49295, 49806
Proposed Rules:
52 .....49330, 49509, 49870, 49872, 49894, 50052, 50312, 50314, 50548, 50551
62.....49897
70.....49509
81.....50556
82.....49332
86.....49344
271.....49900
721.....49903

42 CFR

411.....49832
412.....49832
413.....49832, 49836
424.....49832, 49836
495.....49836
Proposed Rules:
405.....49513
423.....49513

44 CFR

Ch. I.....49302
64.....50289

46 CFR

502.....50290
503.....50290
515.....50290
520.....50290
530.....50290
535.....50290
540.....50290
550.....50290
555.....50290
560.....50290

47 CFR

73.....50035

48 CFR

801.....49302
811.....49302
832.....49302
852.....49302
870.....49302
Proposed Rules:
232.....50052
242.....50052
252.....50052

49 CFR

Proposed Rules:
10.....50053
395.....50055
1152.....50326

50 CFR

100.....50758
622.....50295
660.....50510
665.....49495
679 .....49496, 49497, 49994, 50036
Proposed Rules:
17 .....50560, 50574, 50582, 50610
100.....49322
622.....50056
648.....50059
697.....50061

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 5, 2018

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